

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FAMIL COURT APPEAL NO. 238 OF 2013

IN

M.J.PETITION NO.A 1459 OF 2008

Mr. Harish Tarachand Jain

..Appellant

v/s.

Mrs. Sarika Harish Jain

..Respondents

Mr. Ajit Kenjale a/w. Rajesh Dharap for the Appellant.

Mr.S.K.Jain i/b. S.K.Jain & Associates for the Respondent.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : APRIL 13, 2015.

P.C.

1. The parties have settled their dispute with the intervention of the mediator and have filed the consent terms which are as follows:-

1. There shall be a Decree of Divorce by Mutual Consent as between the Appellant and the Respondent. The Decree of Divorce shall take effect upon the payments of the sum of Rs.8,000,00.00 (Rupees Eight Lacs Only) and

Rs. 4,52,000.00(Rupees Four Lacs Fifty Two Thousand Only as set out in paragraphs 5 and 7 hereunder.

2. Both the parties hereby withdraw all the allegations, contentions, claims, grievances etc. made against each other and their respective family members made by them.

3. The permanent custody of baby Bhoomi shall remain with the Respondent Sarika Jain. It is agreed that, with prior intimation to the Respondent and without disturbing the extra-curricular activities, education of Baby Bhoomi, the Appellant will be entitled to have an access of baby Bhoomi once in a fifteen days as per the convenience of the Respondent i.e mother as well as the baby Bhoomi.

4. The Respondent i.e. mother will be guardian for the Baby Bhoomi.

5. The Appellant has agreed to pay Rs. 4,52,000.00(Rupees Four Lacs Fifty Two Thousand Only) to the Respondent as permanent alimony/permanent Maintenance and upon receiving the said amount, the Respondent shall not claim any further maintenance of whatsoever nature for herself in the present or future. The Appellant has today upon signing of the consent terms, has handed over a Cheque bearing No. 000054 dated 10.4.2015 for a sum of Rs. 3,35,000/- (Rupees Three :Lacs Thirty five thousand only) drawn on Bank of India, Vasai Branch to

the Respondent in view of the compliance of the terms. It is further agreed that balance amount of Rs. 1,17,000.00 (Rupees One Lac Seventeen thousand Only) shall be paid by the Appellant by redeeming the National Saving Certificates as mentioned below in Clause No. 6 to the Respondent.

6. It is agreed that the Respondent Sarika Jain shall assist, accompany and allow the Appellant Harish Jain in redeeming the National Saving Certificates which are in Respondent's name to the Vasai Post Office. It is agreed that she shall sign the all the necessary documents that shall be required to allow Appellant Harish Jain to redeem the said National Savings Certificates. It is agreed that as the said redemption of the National Savings Certificate shall be received from the Post authorities vide Cheque in favor of Respondent i.e. Sarika Jain, for the sum of Rs. 1,17,000.00 (Rupees One Lac Seventeen thousand Only) being the matured amount of National Saving Certificates. It is agreed that the said amount shall be appropriated against the amount of Rs. 4,52,000.00 (Rupees Four Lacs Fifty Two thousand Only) to be paid to the Respondent Sarika Jain as per clause 5 of the present consent terms. It is agreed that the redemption of the National Saving Certificates shall be done as early as possible within 15 days of signing of the

Consent Terms on date mutually convenient to the Respondent and Appellant. It is agreed that the Appellant and Respondent both shall jointly approach the Post Office, at Vasai for the redemption of the National Saving Certificates. The copy of the national savings certificates are attached herewith. It is agreed that both the parties shall co-operate each other in redeeming the National Saving Certificates and the Appellant shall handover the Redemption Cheque to the Respondent Sarika Jain forthwith upon receipt of the same from the postal authorities in view of the compliance of the terms mentioned in clause 5. It is agreed that in the event of any unforeseen circumstances/reasons, the postal authorities do not issue the Cheque in favor of the Respondent, in that event, the Appellant agrees and undertakes to pay Rs. 1,17,000.00 (Rupees One Lac Seventeen thousand Only) of his own to the Respondent Sarika Jain. However, the Appellant shall be entitled to redeem the abovementioned National Saving Certificates at his own cost to which the Respondent Sarika Jain shall extend full cooperation as set out hereinabove in the present clause and further shall reimburse the amount of Rs. 1,17,000.00 (Rupees One Lac Seventeen thousand Only) to Appellant Harish Jain forthwith after receipt of the Cheque from the postal

authorities in view of the redemption of the said National Savings certificates annexed hereto by issuing a Cheque in favor of Appellant Harish Jain.

7. The Appellant has further agreed to pay Rs. 8,000,00.00 (Rupees Eight Lacs Only) as and by way of permanent maintenance for Baby Bhoomi and the child's welfare and marriage in full and final settlement of all claims of whatsoever nature towards for the Maintenance of Baby Bhoomi. The Appellant has today upon signing of this consent terms has handed over a Cheque bearing No. 000053 dated 10.4.2015 for a sum of Rs. 8,00,000/- (Rupees Eight Lacs only) drawn on Bank of India, Vasai Branch in view of the compliance of the present clause.

8. The Respondent on such deposit, undertakes to utilize the said amount for her benefit and for the benefit of Baby Bhoomi, as provided hereunder:

a) The Respondent Sarika Jain will be entitled to use a sum of Rs. 4,52,000/- as by way of her maintenance which will be considered as Permanent Alimony/ Permanent Maintenance.

b) The Respondent undertakes to deposit within 15 days from the signing of the present consent terms in the name of baby Bhoomi a sum of Rs. 8,000,00.00 (Rupees Eight

Lakhs Only) for 10 years in fixed deposit scheme with any Nationalized Bank and/or any reputed Co-operative Bank providing higher returns and undertakes not to break the fixed deposit until baby Bhoomi attains Majority. It is agreed that as and when required, Respondent shall also open a Joint Saving Account with the concerned Nationalized Bank in her name and Baby Bhoomi for enabling of investing the amount in the Fixed Deposit Scheme in favor of Baby Bhoomi.

bi) The appellant Harish undertakes to pay Rs.20,000/- (Twenty Thousand Only) on or before 1st June of every academic year of Baby Bhoomi, till she completes her 10th Standard as and by way of school fees to her, in the account of the Respondent.

c) It is agreed that the Respondent shall file an Affidavit of Compliance in this Hon'ble Court along with the Xerox Copy of the Deposit Investment so made in the name of Baby Bhoomi as mentioned in clause 8b. It is also agreed by the Respondent that she shall also file and undertaking to the effect that she shall not utilize the said Deposit of Rs. 8,000,00.00(Rupees Eight Lakhs Only) for herself. The Respondent shall file the said compliance Affidavit and undertaking within one month of signing of the consent terms and provide a Xerox Copy of the above Fixed

Deposit Receipt, Undertaking and the Compliance Affidavit to the Appellant herein.

9. The Respondent hereby confirms and acknowledges of having received her entire Stridhan / Gold ornaments/Silver ornaments and all the articles from the Appellant Harish Jain and confirms that no any part and/or any piece of articles and/or any Gold, Silver ornaments are left with Appellant and/or his parents/ family members. Hereto attached and marked as **Exhibit A** is a copy of the Gold Jewelry handed over to the Respondent.

10. Both the parties hereto relieve each other and members of his/her family members from any claim against each other as they have already exchanged all their articles, clothes, wares etc.

11. The Appellant further agrees that he will co-operate with the Respondent in deleting her and Baby Bhoomi's name from his ration card to enable the Respondent to add their names in the ration card which the Respondent will apply separately. The Appellant has further agreed to return all the documents like PAN card etc. to the Respondent and complete the requisite formalities within 1 month from today.

12. The Appellant do hereby declares and confirms that save and except the National Saving certificates annexed

herewith, the Appellant has not invested any amount in any form lying credited to the favor of the Respondent. It is agreed by the Appellant that in case if any amount is latter on know to the Appellant, then the Respondent alone shall be entitled to receive all benefits under the such know investments to the Appellant and the Appellant undertakes to pay and pass on all the credits/ benefits to the Respondent within one month of disclosure of such investments if any.

13. The Family Court Appeal No. 238 of 2013, Family Court Appeal No. 239 of 2013 and Family Court Appeal No. 50 of 2014 as well as Civil Applications therein are disposed of in above terms.

14. The Marriage between the parties solemnized on 6th June 2003 is hereby agreed to be dissolved by Decree of Divorce by Mutual Consent in pursuance to the compliance of the Consent Terms herein above.

15. No order as to Cost.”

2. Both the appellant and the respondent are present in the court. On specific query they state that they have gone through the consent terms and understood the same. They have no objection to dispose of the above referred appeal in terms of the consent terms. The consent

terms are accordingly taken on record and marked “X” for identification. Undertaking given in the consent terms is accepted.

3. Appeal is disposed of in terms of the consent terms.
4. Decree be drawn accordingly.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)