

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.593 OF 2013

Mr.Adnan Chara ... Appellant

Vs.

Mrs.Farhat Adnan ... Respondent

Mr.M.P. Panchakshari for the Appellant
Mr.S.S. Kulkarni for Respondent

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **6th JANUARY, 2016**

P.C.:

1. In this appeal, the judgment and order passed by the Civil Judge, Senior Division, Thane, decreeing the suit by passing the order of dissolution of marriage under the Dissolution of Muslim Marriages Act, 1939 is challenged. As per the respondent/wife, who is the original petitioner, the suit was valued for Rs.1 crore.

2. The learned Counsel for the appellant/husband has submitted that in view of the notification issued by the Government of Maharashtra, under Maharashtra Civil Courts (Amendment) Act, 2015 bearing No.CCS.2014/C.R.25/D19 dated 31.8.2015, the pecuniary jurisdiction of the District Court is enhanced upto Rs.1 crore and therefore, this appeal stands transferred to the District Court, Thane. The learned Counsel further submitted that this appeal cannot be treated as a statutory appeal

because under the Dissolution of Muslim Marriages Act, 1939, there is no special provision to appeal and, therefore, the present appeal is to be treated as/ 96 of the Code of Civil Procedure. The learned Counsel for the respondent/wife has submitted that the petition is valued for Rs.1 crore and, therefore, the appeal will not be transferred to the District Court.

3. There is no dispute that in the Dissolution of Muslim Marriages Act, there is no specific provision of appeal, which is available under the Family Courts Act. Thus, the appeal filed under the said act is an appeal under section 96 of the CPC and not a statutory appeal. Section 28C of the Maharashtra Civil Courts (Amendment) Act, 2015 reads thus:

“28C. On the commencement of the Maharashtra Civil Courts (Amendment) Act, 2015, all appeals in which the amount or value of the **subject matter does not exceed one crore rupees** and pending before the High Court immediately before such commencement, shall stand transferred to the concerned District Court and such District Court may deal with such appeal from the stage which was reached before such transfer or from any earlier stage or *de-novo* as such court may deem fit:

Provided that, this section shall not apply to any appeals which are pending before the High Court, which are statutorily provided under the relevant enactment before such Court.”

(emphasis added)

4. The section is worded as not exceeding one crore. It means the matters/appeals which are having valuation of one crore and below shall stand transferred to the District Court. The Legislature has used the word “does not exceed” and not the words “below one crore” or “less than one

crore". Therefore, the valuation of the appeals valuing Rs.1 crore shall stand transferred to the District Court.

5. In view of this, the Registrar (Judicial) is directed to send the appeal alongwith all the papers to the District Court, Thane on or before 22.1.2016 and both the parties shall appear before the concerned District Judge to whom the matter may be assigned, on 1.2.2016 at 11am. Interim orders passed earlier, if any, to continue till then.

6. Appeal stands disposed of as transferred.

(MRIDULA BHATKAR, J.)