

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO.208 OF 2007

Snehlata Ravindra Sharma **Appellant**
V/s
Ravindra Mataprasad Sharma **Respondent**

Mr. Omer K. Shaikh for the Appellant.

Mr. Rupresh R. Lanjekar for the Respondent.

CORAM : A.S. OKA &
A.A. SAYED, JJ.
DATED : 25 OCTOBER 2016

ORDER:

1 The learned Counsel appearing for the Appellant and the learned Counsel appearing for the Respondent tendered Consent Terms. The Consent Terms are taken on record and marked "X-1" for identification. The Consent Terms bear the signatures of the Appellant, the Respondent and their respective Advocates. The Appellant and the Respondent through their respective learned Counsel state that the contents of the Consent Terms are true and correct and therefore, Appeal be disposed of in terms of the Consent Terms. The learned Counsel appearing for the Respondent has handed over a Demand Draft in the sum of

Rs.7,00,000/- more particularly described in clause 2 of the Consent Terms. The Advocate for the Appellant has accepted the said Demand Draft in presence of the Appellant.

2 We find that the Appellant wife and Respondent husband have been continuously residing separately atleast from the year 2002. The Consent Terms show that the parties have found that it is impossible for them to continue the matrimonial tie and therefore, they have agreed to take divorce by mutual consent under section 13B of the Hindu Marriage Act, 1955 (for short "the said Act"). In fact by the impugned decree passed in Petition No.A 583 of 2003, the learned Judge of the Family Court has passed a decree of dissolution of marriage on the ground of cruelty.

3 In the light of the Consent Terms tendered on record and marked X-1 for identification, we are satisfied that there is no collusion between the parties and after the parties were satisfied that the matrimonial relationship cannot continue, they have agreed to dissolve their marriage by mutual consent.

4 Accordingly, we dispose of the Appeal by passing following order:

- i) The impugned judgment and decree dated 22 August 2007 is hereby quashed and set aside and the Petition No.A-583 of 2003 is restored;

- ii) We permit the Appellant and Respondent to convert the said Petition into a Petition under section 13B of the said Act. As the record and proceedings of the Family Court is received by this Court, we direct the Registrar (Judicial-I) to permit the parties to carry out the amendment to the Petition within a period of six weeks from today;
- iii) The amendment shall relate back to the date of the Institution of the said Petition.
- iv) The marriage solemnized between the Appellant and the Respondent on 30 November 2001 is hereby dissolved by a decree of divorce by mutual consent under section 13B of the Hindu Marriage Act, 1955.
- v) In addition to the aforesaid decree of divorce, there shall be a decree in terms of the Consent Terms marked 'X-1' for identification. Undertakings of the parties in the Consent Terms are accepted.
- vi) There will be no orders as to costs.

(A.A. SAYED, J.)

(A.S. OKA, J.)

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