

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PARSI SUIT NO. 6 OF 2016**

Ruby Percy Dalal	...Plaintiff No. 1
<i>Versus</i>	
Percy Viraf Dalal	...Plaintiff No. 2

Ms. A.S. Khushrushahi, *for Plaintiff No. 1.*
Mr. P.M. Rustomkhan, *for Plaintiff No. 2.*

CORAM: G.S. PATEL, J
DATED: 1st April 2016

PC:-

1. This is a suit for divorce by mutual consent under Section 32-B of the Parsi Marriage & Divorce Act, 1936. The 1st Plaintiff is the wife. The 2nd Plaintiff is the husband. Both are present in Court.

2. The Plaintiffs were married on 18th January 2001 in Mumbai according to Zoroastrian Rights and Customs. This was the first marriage for both. The parties have two children, a daughter, Khushnaz, born on 28th June 2002, and a son, Jehan, born on 5th October 2003.

3. After marriage, both Plaintiffs lived together as a man and wife at Gowalia Tank, Mumbai with the 2nd Plaintiff's parents.

The 2nd Plaintiff's mother passed away in July 2010. It seems that thereafter certain differences arose between the Plaintiffs. Over time, these differences sharpened, and all attempts at reconciliation including by friends and family, failed. The parties found it impossible to live together as man and wife. Although under the same roof in the house at Gowalia Tank, the parties lived separately from December 2014. All matrimonial ties were severed.

4. On 29th August 2015, the 1st Plaintiff wife left the matrimonial home with the two minor children. She went to live separately at a Tardeo Flat. She is residing there even today.

5. The parties state that they have been living apart since December 2014, i.e., for more than one year prior to the filing of the Suit. They say that they will not be able to live together. They have now agreed that the marriage should be dissolved. They have arrived at certain Consent Terms which are annexed at Exhibit "B" to the Plaint. Both agree that they have signed these Consent Terms on their own volition and without any pressure or coercion.

6. I have seen the Consent Terms at Exhibit "B" to the Plaint. These make provision for custody of the minor children which is to remain with the 1st Plaintiff. The 2nd Plaintiff has been given liberty to communicate with both children daily over the phone at an mutually agreed time. A provision is also made for access by the 2nd Plaintiff husband to the minor children every Sunday. An arrangement has been arrived at for overnight access as well. The Plaintiffs have also agreed not to claim any maintenance or alimony from each other as both of them are independently employed.

There are, in addition, provisions for educational expenses, return of jewellery and other matters. Learned Advocates for both sides state that all the exchanges required by the Consent Terms have already been effected. This is so noted.

7. I am satisfied that the Consent Terms are not contrary to the law and have been arrived at by the parties on their own volition in reflection of their true intention and wishes.

8. Both Plaintiffs have tendered Affidavits in lieu of examination-in-chief. Their evidence is separately recorded.

9. The undertakings in the Consent Terms are accepted as undertakings to the Court.

10. The Petition is made absolute in terms of prayer clauses (a) and (b). The marriage of the parties is dissolved under Section 32B of the Parsi Marriage and Divorce Act, 1936. There will also be an order in accordance with the Consent Terms.

11. Decree to be drawn up accordingly.

12. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J.)