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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ MAT.APP.(F.C.) 2/2016

LATIKA TAYAL

..... Appellant

Represented by: Mr.Rajeev Saxena, Advocate
with appellant in person.

versus

PRAFUL TAYAL

..... Respondent

Represented by: Mr.Pradeep Dewan, Senior
Advocate instructed by
Ms.Anupam Dhingra,
Advocate and respondent in
person.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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09.08.2016

1. A petition seeking divorce on the ground contained in Section 13(1)(ia) of Hindu Marriage Act, 1955 was filed by the respondent herein Sh.Praful Tayal at Mumbai which was transferred to Delhi vide order dated February 02, 1998 passed by the Supreme Court in T.P.(Civil) No.249/1997.
2. The divorce petition was registered as HMA No.1005/2014 which was allowed by the Family Court, Central District, Tis Hazari, Delhi.
3. The decree of divorce was assailed before this Court by the appellant herein Smt.Latika Tayal by filing MAT.APP.(F.C.) No.2/2016.
4. During pendency of the appeal the matter was referred to Delhi High Court Mediation and Conciliation Centre.

5. During the mediation proceedings the litigating parents agreed for participation of their only son Sh.Shrey Tayal in the proceedings.
6. A settlement dated August 08, 2016 has been arrived at before Delhi High Court Mediation and Conciliation Centre among Smt.Latika Tayal, Sh.Praful Tayal (referred to as first party and second party respectively) and their son Sh.Shrey Tayal aged 30 years (referred to as third party).
7. The appellant alongwith the respondent and their son Sh.Shrey Tayal are present in the Court today.
8. Sh.Shrey Tayal – son the appellant and respondent has placed on record his affidavit to confirm the terms and conditions of the settlement arrived at before Delhi High Court Mediation and Conciliation Centre for the reason that though not a party to the litigation between his parents, he had played significant role in bringing peace and harmony in the family by persuading his parents to enter into a settlement which has been signed by him as third party.
9. The active role played by Sh.Shrey Tayal – son of the appellant and respondent and the responsibility he had undertaken to ensure the compliance of the terms of the settlement have been recorded in the settlement agreement entered into before Delhi High Court Mediation and Conciliation Centre.
10. The terms and conditions of the settlement agreement entered into before Delhi High Court Mediation and Conciliation Centre are as under :-

‘1. The Third Party agrees and undertakes to buy a residential accommodation of 2 BHK in the name of the First Party, duly approved by her on or before October 2020 in the vicinity of Ballygunge, Kolkata where the Second and Third Parties are presently residing. The property shall be purchased in the name of the First Party and she shall be taken as the sole, exclusive and absolute owner of the said property. The parties agree that the said property shall be free from all

encumbrances and the First Party shall be free to use and deal with the said property the way she would so desire. The First Party shall be free to stay in the said property and/or let out the same and/ or sell the same and buy any other property in Kolkata, Hyderabad and/or at any other place and the Second and the Third Parties shall have no right, title, interest or claim in respect of the said property.

2. The Second Party also undertakes and agrees to pay the a sum of Rs.13,000/-(Rupees Thirteen Thousand Only) per month to the First Party from October, 2016 upto September, 2018. Thereafter, the Second Party shall pay a sum of Rs.14,000/- (Rupees Fourteen Thousand Only) per month to the First Party from October, 2018 upto September, 2020. Thereafter, the Second Party shall pay a sum of Rs.15,000/-(Rupees Fifteen Thousand Only) per month to the First Party from October, 2020 upto September, 2022. Thereafter, the Second Party shall pay a sum of Rs.16,000/-(Rupees Sixteen Thousand Only) per month to the First Party from October, 2022 upto September, 2024. All the payments shall be made by the Second party to the First party by way of RTGS by by 15th of each English calendar month.

3. The Third Party also agrees and undertakes to pay to the First Party a sum of Rs.12,000/- (Rupees Twelve Thousand Only) per month from his own resources by depositing the same in her bank account of the First Party by RTGS w.e.f. October, 2016 by 15th of each English calendar month. The said amounts shall be payable by the Third Party till September 2018. In case the Third Party needs more time in arranging for the property in terms of clause 1 above then the Third Party shall pay a sum of Rs.13,000/-(Rupees Thirteen Thousand Only) per month by depositing the same in the bank account of the First Party by RTGS till September 2020. The First Party undertakes to give details of her bank account to the Second and Third Parties within a week of signing of the present Settlement Agreement.

4. The parties agree that the property for the First Party in terms of Clause 1 above shall positively be arranged by the Third Party by October 2020 and the time frame for the same

shall not be extended any further.

5. *The parties agree that since the Third Party is not a party to the proceedings, and since he has intervened being their only son and has undertaken to arrange the property and provide additional financial support to the First Party, he shall be made a party to the proceedings by moving an appropriate application before the Hon'ble Court in MAT. APP. (FC) No. 2/2016.*

6. *The parties agree that the stipulations made herein, in the form of terms/ covenants shall be taken as undertaking to the Hon'ble court by the concerned parties and in addition thereto the Third Party shall also file his affidavit giving an undertaking to the Hon'ble court to comply with the terms agreed herein.*

7. *The Parties agree that the First Party shall be entitled to get the locker No. 57, Key No. 49, Andhra Bank, Somajiguda Branch, 6-3-665/A/1, Pujagutta, Hyderabad-500082, desal anytime after the withdrawal of MAT. APP (FC) No. 2/2016 opened and shall be entitled to retain all the items lying in the said Locker. The Second Party shall not claim any right over any item lying in the said Locker. It is agreed between the parties that a Gold Ring, having engraved thereon the name of the father of the Second Party shall be handed over by the First Party to the Third Party at the convenience of the Third party. The Second Party agrees and undertakes to pay the bank charges, if any, payable to the bank for holding the locker in the said bank*

8. *The Second Party agrees that he shall extend his full co operation in getting the said Locker opened / desaled by writing a letter giving his 'No Objection' to the Bank authorities for allowing the First Party to open the said Locker and take out the items lying in the said locker. In case the bank authorites require his physical presence for the same at Hyderabad, then the Second Party shall be physically present and seek the desaling of the locker and permit the First Party to take the items lying in the said locker. It is agreed between the Parties that the Second Party shall not claim any right*

whatsoever on any item lying in the said Locker except the ring as stated above which shall be given to the Third Party.

9. The Second Party agrees that the First Party shall be entitled to get all the eligible benefits available to her as an ex-wife of the Second Party who had since retired from the Defence e.g. canteen, medical facilities, etc. The Second Party shall comply with all the requirements as per eligibility as applicable to the case of the parties and submit requisite documents with his department for the said purpose within six weeks from the date of withdrawal of MAT. APP. (FC) No. 2/2016.

10. The First Party, on the Third Party giving his undertaking to the Hon'ble Court for complying with the terms stipulated hereinabove and on acceptance of the same by the Hon'ble Court, withdraw the MAT. APP. (F.C.) No. 2/2016 filed by her against the judgment and decree dated 27.03.2014 passed by Shri Dilbagh Singh Punia, Principal Judge, Family Court, Central District, Tis Hazari Courts, Delhi, in HMA Case No. 1005/2014.

11. The parties further agree that till the time the property in terms of clause (1) is arranged by the Third Party in the name of the First Party, no third party interest shall be created in respect of Flat No. 66-B(F.F.), DDA Flats (MIG), Motia Khan, Paharganj, New Delhi-110055 by sale or mortgage, etc. However, the Second Party shall be free to let out the said Flat and collect rent by letting out the same to any tenant.

12. The First Party agrees that in terms of the present settlement agreement, all her claims towards maintenance, past, present or future, permanent alimony, stridhan, dowry articles etc against the Second Party shall stand satisfied and she shall not raise any claim about the same in future against the Second Party. The First Party further agrees that on compliance of the terms of the present settlement agreement by the Third Party, she shall neither be entitled to nor claim any right in the properties, both movable or immovable of the Second Party.

13. The First and the Second Party agree that they have no further claims or demands against each other and all their disputes and differences have amicably been settled through the process of mediation. Both the parties agree that they shall not initiate any other proceedings either under civil law or criminal law against each other and / or their family members regarding their matrimonial discord except for implementation of the terms agreed herein by way of this settlement.

14. The First Party agrees and accepts that upon the withdrawal of the MAT APP (F.C.) No. 2/2016 in terms of the present settlement agreement, the divorce decree passed by Sh. Dilbagh Singh Punia, Principal Judge, Family Court, Central District, Tis Hazari Courts, Delhi in HMA No. 1005/2014 vide its judgment and decree dated 26.07.2014 as amended by orders dated 27.03.2015 shall attain finality and the First Party undertakes not to challenge the same at any point of time in future.'

11. The undertaking given by Sh.Shrey Tayal by way of affidavit is to the following effect:-

'(a) I agree and undertakes to buy a residential accommodation of 2 BHK in the name of my mother - the Appellant, duly approved by her on or before October 2020 in the vicinity of Ballygunge, Kolkata, West Bengal, where I am currently residing with my father the Respondent in the Appeal.

(b) I undertake that the property shall be purchased in the name of my mother who shall be the sole, exclusive and absolute owner of the said property, which shall be free from all encumbrances and my mother shall be free to use and deal with the said property in the manner as she may so wish and desire and neither myself nor my father – Respondent in the Appeal shall have any right, title, interest or claim in respect of the said property.

(c) I agree and undertake to pay to my mother a sum of Rs.12,000/- (Rupees Twelve Thousand Only) per month from my own resources by depositing the same in her bank account by RTGS on or before the 15th day of each calendar month

starting from the month of October, 2016, and shall continue to pay the said amount to her till September 2018.

(d) In case, however, if I would need some more time for arranging the property for my mother then I will pay a sum of Rs.13,000/-(Rupees Thirteen Thousand Only) per month by depositing the same in the bank account of the First Party by RTGS till September 2020.

(e) I undertake that the property for my mother shall positively be arranged by me by October 2020 and I will not seek extension of the time frame for the same any further.

(f) I alongwith my father have agreed and undertaken that till the time the property in terms of clause (1) is arranged by me in the name of my mother no third party interest shall be created in respect of Flat No. 66-B(F.F.), DDA Flats (MIG), Motia Khan, Paharganj, New Delhi-110055 by means of sale or mortgage, etc., but we shall be free to let out the said Flat and collect rent from the same to any tenant.'

12. The parties to the litigation as well their son Sh.Shrey Tayal submit that in terms of the settlement agreement arrived at before Delhi High Court Mediation and Conciliation Centre while disposing of the appeal as withdrawn it may also be recorded that in Flat No.66-B(F.F.), DDA Flats (MIG). Motia Khan, Paharganj, New Delhi-110055, no third party interest may be created till the residential accommodation of 2 BHK in the vicinity of Ballygunge, Kolkata, West Bengal is bought in the name of Smt.Latika Tayal on or before October, 2020. It was agreed by the parties that the Flat No.66-B(F.F.), DDA Flats (MIG). Motia Khan, Paharganj, New Delhi-110055 can be leased out in the meantime to which Smt. Latika Tayal has no objection.

13. Since this apprehension of the appellant has already been taken care of in Clause 11 of the settlement agreement dated August 08, 2016 no further direction is necessary in this regard.

14. Accordingly the appeal is dismissed as withdrawn with direction to the parties to the settlement agreement dated August 08, 2016, to be bound by the terms and conditions of the settlement and undertaking furnished by Sh.Shrey Tayal before this Court.

15. No costs.

CM No.207/2016

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

AUGUST 09, 2016

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