

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8903 OF 2017

NIKHIL NANDKUMAR JOSHI
VERSUS
SARIKA NIKHIL JOSHI

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Advocate for Petitioners : Mr. Waramaa B.R.
Advocate for Respondents : Mr. Thorat Chandrakant R.

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CORAM : V.K. JADHAV, J.
Dated: November 14, 2017

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PER COURT :-

1. Heard learned counsel appearing for both the parties.

2. It appears that, this Court in pending Misc. Civil Application No.236/2016 referred the parties for mediation and accordingly, the parties appeared before the Mediator in the High Court and settled their dispute amicably. Learned Mediator has recorded the terms of settlement arrived at between the parties and accordingly, this Court by order dated 14.2.2017 transmitted the aforesaid terms of settlement to the Court of Civil Judge S.D., Ahmednagar, where

proceeding bearing Hindu Marriage Petition No.404/2014 are pending, for further appropriate action and orders.

3. On transmitting those papers and after receipt of those papers, both the parties appeared before the Trial Court and submitted Joint pursis Exh.42 and 43 respectively, stating therein that in terms of the settlement arrived at between the parties before the Mediator, the Court shall pass decree in terms of the said settlement.

4. The learned Judge of the trial court, by order dated 29.3.2017, heard both sides and further recorded that the parties are arrived at a compromise in Mediation Center of the High Court and as per said compromise, they are going to file Divorce Petition by mutual consent. Learned Judge has thus disposed off said Hindu Marriage Petition No.404/2014.

5. Learned counsel for the petitioner submits that, as

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per the terms of the settlement before the Mediator in the High Court, it has been nowhere stated that the parties would file divorce petition by mutual consent. Learned counsel submits that, in terms of Rule 24 and 25 of “The Mediation Rules” framed by the High Court, after issuing notice to the parties, the Court is required to pass the decree in accordance with the settlement so recorded.

6. I have carefully gone through those rules and terms of settlement arrived at between the parties before the Mediator in the High Court. This Court has transmitted all the original papers to the Court below for passing a decree in accordance with the settlement so recorded, however, it appears that, the learned Judge of the trial Court has only disposed off the pending Hindu Marriage Petition No.404 of 2014 by passing an order below Exh.1 dated 29.3.2017.

7. In view of the above, I proceed to pass the following order.

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O R D E R

1. Writ Petition is hereby partly allowed.
2. The impugned order dated 29.3.2017 passed by the 4th Jt. Civil Judge Senior Division, Ahmednagar, below Exh.1 in Hindu Marriage Petition No.404 of 2014 is hereby quashed and set aside.
3. Hindu Marriage Petition No.404 of 2014 shall be restored to its original number on the file of 4th Jt. Civil Judge S.D., Ahmednagar.
4. The learned Judge of the Trial Court shall pass a decree in terms of the settlement arrived at between the parties.
5. The learned Judge shall also consider the joint pursis filed by the parties at Exh.42 and 43 respectively.
6. The parties shall appear before the Trial Court on **2nd of December, 2017** and the Trial Court shall pass the appropriate order in terms of the settlement on the same day.

7. Writ Petition accordingly disposed off.
No costs.

(V.K. JADHAV, J.)

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