

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRI. APPLN. (APPW) NO. 253 OF 2017

IN

CRI. APPLN. (APPW) NO. 182 OF 2017

IN

CRI. WRIT PETITION NO. 600 OF 2011 (DECIDED)

Dr. Gajendra S/o Marotrao Surpam

-vs-

Smt. Mohini w/o Gajendra Surpam and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. M.M.Dandekar, counsel for the petitioner.

Ms Kirti Deshmukh, counsel h/f Mr. Anup Lohiya, counsel for the respondents.

CORAM : SMT.REVATI MOHITE DERE, J.

DATE : 09.11.2017.

Heard learned counsel for the parties.

By this application, the respondents seek modification of the order dated 20/11/2012 passed by this Court, in Criminal Writ petition No.600 of 2011.

Learned counsel for the respondents submits that the parties during the pendency of Writ Petition No.600 of 2011, had filed a petition under section 13-B of the Hindu Marriage Act, for grant of decree of divorce by mutual consent. He submits that under clause (d) of the said consent terms, an amount of Rs.4,00,000/- paid by the petitioner-husband was to be deposited in fixed deposit in any Nationalized Bank, in the name of their daughter Ku.Sneha Surpam, through her natural guardian mother-Mohini Surpam (respondent No.1), for a long term and the same was to be renewed from time to time, till Ku.Sneha Surpam

attained the age of majority. The respondent-wife, under the said consent term was not entitled to withdraw the said amount of Rs.4,00,000/-, however, was entitled to withdraw the accrued interest on the amount of Rs.4,00,000/- for the maintenance and benefit of Ku.Sneha. Under the said clause (d), Ku.Sneha is entitled to withdraw the said amount of Rs.4,00,000/-, on attaining the age of majority. There was several other clauses in the said consent terms, however in the present application only clause (d) is relevant.

Learned counsel for the respondents submits that pursuant to the consent terms entered into between the parties, the aforesaid Criminal Writ Petition No.600 of 2011 was also disposed of. He submitted that this Court vide order dated 20/11/2012 directed the Registrar (Judicial) to take necessary steps for depositing the amount of Rs.4,00,000/- and interest, if any, in fixed deposit in any Nationalized Bank in the name of Ku.Sneha Surpam and directed that the said fixed deposit shall be renewed from time to time in view of the consent terms. Learned counsel for the respondents states that despite the consent terms, permitting the respondent No.1 to withdraw the interest accrued on the said fixed deposit of Rs.4,00,000/-, the respondent No.1 has not been able to withdraw the said interest amount, as there is no mention in the said order about withdrawal of the amount of interest accrued on Rs.4,00,000/- and hence, seeks modification to the order dated 20/11/2012.

Learned counsel for the petitioner has no objection, if the respondent No.1 is permitted to withdraw the interest accrued on the said fixed deposit of Rs.4,00,000/- as agreed by and between the parties in the

consent terms entered into between them.

Perused the papers. It is a matter of record, that after the aforesaid Criminal Writ Petition No.600 of 2011 was filed in this Court, the parties agreed to mutually settle their dispute by filing 13-B petition, seeking divorce by mutual consent. Pursuant thereto, a petition under section 13-B of Hindu Marriage Act, was filed before the Family Court. The Family Court was pleased to pass a decree of divorce, thereby dissolving the marriage solemnized between the petitioner and the respondent No.1. In the consent terms entered into between the parties, one of the terms with which, the present application is concerned is clause (d).

Clause (d) of the said consent terms reads as under:-

*“(d) Out of the said total amount of Rs.8,60,000/- deposited/paid in aforesaid manner, an amount of Rs.4,00,000/- shall be deposited in Fixed Deposit in any of the Nationalized Bank in the name of the daughter Sneha Surpam through her natural guardian Smt.Mohini Surpam (i.e. Petitioner No.2) for long term maturity and same shall be renewed till the said daughter Ku.Sneha Surpam attains age of majority. **The Petitioner No.2 shall not be entitled to withdraw the said amount of Rs.4,00,000/-, however, the Petitioner No.2 shall be entitled to withdraw the accrued interest on the amount of Rs.4,00,000/- for the maintenance and benefit of the daughter Ku.Sneha Surpam.** It is only, the daughter Ku.Sneha Surpam shall be entitled to withdraw the said amount of Rs.4,00,000/- after attaining the age of majority. The petitioner No.2 hereby accepts all liabilities*

including education, food, medicine, marriage, etc. of daughter Ku.Sneha Surpam and shall not claim any thing from the Petitioner No.1.” (Underline Supplied)

Thus, under clause (d) of the consent terms, the respondent No.1 was not entitled to withdraw the amount of Rs.4,00,000/-, however, was entitled to withdraw the accrued interest on the amount of Rs.4,00,000/- for the maintenance and benefit of Ku.Sneha.

This Court vide order dated 20/11/2012, while disposing of the said writ petition, had directed the Registry to take steps for depositing the amount of Rs.4,00,000/- and interest accrued thereon, if any, in fixed deposit in any Nationalized Bank, in the name of Ku.Sneha Surpam and further directed that the same shall be renewed from time to time in view of the consent terms. It appears that since there is no mention in the said order about withdrawal of the amount of interest accrued on Rs.4,00,000/-, the respondent No.1 is unable to withdraw the said accrued interest on Rs.4,00,000/-.

Accordingly the application is allowed on the following terms:-

- (i) The respondent No.1 is permitted to withdraw all the interest accrued on the fixed deposit till date and even thereafter, till Ku.Sneha Surpam attains the age of majority.
- (ii) Registry to intimate the concerned bank(s) about this order.

It appears, that although by order dated 20/11/2012, passed in Criminal Writ Petition No.600 of 2011, this Court had directed the Registry to deposit the said amount of Rs.4,00,000/- along with interest, if any, accrued

thereon in a fixed deposit in any Nationalized Bank, in the name of Ku. Sneha Surpam, the said fixed deposits have been made in the name of Registrar.

It is informed by the Registry, that there are 3 FDs. The Registry to take steps to ensure that all the 3 (three) FDs are transferred in the name of Ku.Sneha D/o Gajendra Surpam before the period of maturity is over i.e. in 2018 and 2019, in compliance of the order dated 20/11/2012.

Application is accordingly disposed of.

All the parties to act on the authenticated copy of this order.

In view of the order passed in Criminal Application (APPW) No.253 of 2017, nothing survives for consideration in Criminal Application (APPW) No. 182 of 2017. The said application is accordingly disposed of.

JUDGE