

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.341 OF 2017

Urjita Ankur Jain	...Appellant
Versus	
Ankur Hitesh Jain	...Respondent

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Mr. Manish Rai with Mr. Santosh Parmar and Santosh R. Bhagat for the Appellant.

Mrs. Savina S. Bangera with Mr. Prasad Malhari for the Respondent.

Ms Urjita Ankur Jain, Appellant is present.

Mr. Ankur Hitesh Jain, Respondent is present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 2nd MAY, 2018.

(In chamber)

P.C.:-

The Appellant herein has challenged the judgment and decree dated 13th November, 2016 whereby the District Judge-8, Thane has dismissed the Marriage Petition No.41 of 2014.

2. The Appellant and the Respondent were married on 12.7.2013. Marital discord between the parties led to the Appellant-wife filing a divorce petition No.41 of 2014 before the learned District Judge-8, Thane. By the impugned judgment, the learned District Judge-8, Thane dismissed the marriage petition. Being aggrieved by the said judgment and decree, the Appellant wife has preferred this appeal.

3. Mr. Manish Rai, the learned counsel for the Appellant-wife and Mrs. Savina S. Bangera, the learned counsel for the Respondent-husband have submitted that the parties have settled the dispute amicably. They have tendered the consent terms, which read thus:-

“1. That the marriage between the Appellant and the Respondent dated 12th July, 2013 registered at Pune, as per the provisions of the Maharashtra Registration Act, 1998 shall stand dissolved.

2. The Appellant and the Respondent have withdrawn all the allegations against each other.

3. It is agreed by and between the Appellant and the Respondent that they shall withdraw all the criminal case filed against each other.

4. The Respondent herein above confirms that he has withdrawn S.C.C No.2443 of 2017 and R.C.C. No.867 of 2017 filed by him against the Appellant before the Criminal Court at CBD Belapur on 12.04.2018.

5. The Appellant and Respondent does not claim any maintenance of whatsoever nature from each other either at present or in future.

6. The Appellant and the Respondent herein agree and undertake that they shall not file any Civil or Criminal case against each other either in present or in future against each other or even as against the family members.

7. The Appellant and the Respondent agree and undertake that they shall not claim any right, tittle, interest on each other's property or the property of the family members of whatsoever nature either in present or in future.

8. The Appellant and Respondent agree and undertake that they shall not interfere with each other's life in future.

9. That the parties herein have signed the present Consent Terms with their own free will and there is no misrepresentation or coercion or threat or fraud having been played by any of the parties.”

4. The Appellant-wife and the Respondent-husband are present in the chamber along with their respective counsels. The consent terms are signed by the Appellant-wife and the Respondent-husband and their respective counsels. They have stated that the terms are read over and explained to them. They have stated that they signed the consent terms of their own free will, without coercion or force and after having understood the contents of the same.

5. The consent terms are agreeable to the Appellant-wife and the Respondent-husband. The consent terms are taken on record and marked 'X' for identification. The statements and undertaking incorporated in the consent terms are accepted.

6. The Petition No.41 of 2014 before the District Court, Thane, was presented on 7th August, 2014. There is an irretrievable breakdown of the marriage. Hence, the parties are allowed to convert the petition into a petition under Section 13B of the Hindu Marriage

Act, 1955. The Appellant to amend the prayer clauses accordingly. Once the conversion is permitted, the amendment will relate back to the date of the institution of the petition. As regards the cooling period of six months, the Apex Court in *Amardeep Singh Vs. Harveen Kaur; (2017) 8 SCC 746* has held that the minimum cooling period can be waived. Considering the facts of the case and the principles laid down in *Amardeep Singh* (supra) this is a fit case to condone the cooling period of six months and to dissolve the marriage between the Appellant-wife and the Respondent-husband by a decree of divorce by mutual consent under Section 13 B of the Hindu Marriage Act, 1955.

7. Under the circumstances, I pass following order :-

- (i) The first appeal is disposed of in terms of the consent terms.
- (ii) The Appellant-wife shall carry out formal amendment to the petition for converting the same into a petition under section 13 B of the Hindu Marriage Act, 1955 within a period of six weeks from today. The registry shall permit her to amend the petition.
- (iii) The marriage solemnised between the parties on 12th

July, 2013 is hereby dissolved by a decree of divorce under Section 13 B of the Hindu Marriage Act.

(iv) Undertakings of the parties in paragraph /clauses 2 to 8 of the consent terms marked as 'X' are accepted.

(v) The impugned judgment and decree stands modified on above terms.

(SMT. ANUJA PRABHUDESSAI, J.)