

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FAMILY COURT APPEAL NO. 136 OF 2007**

Ankush Parshuram Bhelke

..Appellant

Vs.

Smt Sunita Alias Ankush Bhelke

..Respondent

Mr. S. G. Deshmukh for the Appellant

Mr. Ruturaj Pawar i/b Mr. S. S. Patwardhan for the Respondent

**CORAM :R. M. SAVANT, &
SANDEEP K SHINDE,JJ**

DATE : 8th FEBRUARY, 2018

P.C.

1 The above Family Court Appeal is pending hearing and final disposal. The same is filed by the Appellant husband against the judgment and order dated 13-11-2006 passed by the Learned Judge of the Family Court by which the Petition filed by him being Petition No.A-724 of 1999 for divorce on the ground of cruelty and desertion has been dismissed, and by the impugned judgment and order the Appellant husband was directed to pay permanent alimony @ Rs.4000/- p.m. from the date of the order and also directed to make provision to him for marriage expenses of the daughter.

2 The above Family Court Appeal had reached final hearing when in the course of the hearing the Learned Counsel for the Respondent wife having regard to the fact that the couple is leaving apart since the year 1983, submitted that she would not press for staying together and has no objection

to the marriage being dissolved on account of the divorce by mutual consent under Section 13(B) of the Hindu Marriage Act. The said position is acceptable to the Appellant husband. In so far as permanent alimony is concerned, it seems that the parties had negotiated a settlement on an earlier occasion on account of which the Appellant husband was to pay an amount of Rs.8 lacs as and by way of a one time consolidated amount towards full and final settlement of the Respondent wife claim towards permanent alimony. The said amount it seems was to be paid in 4 equal installments of Rs.2 lacs. It seems that the Appellant husband paid the first installment of Rs.2 lacs and thereafter the balance 3 installments of Rs.2 lacs each were not paid on account of the financial stringency of the Appellant husband. We had during the course of the hearing of the above Appeal before us had once again requested the Learned Counsel for the parties to explore the possibilities of having a one time settlement. However, the Learned Counsel Mr. Deshmukh appearing for the Appellant husband informed us that the Appellant husband does not have the financial wherewithal to pay the amount in lumpsum towards the full and final settlement. However, he undertakes to pay the alimony of Rs.8000/- p.m. which he has been paying since July 2017 with a further increase in the said amount which this Court deems appropriate.

3 Upon this the Learned Counsel for the Respondent wife on instructions of the Respondent wife who is present with her son-in-law Mr.

Samir Deshmukh, has no objection to the said course of action but would submit that the said amount be increased to Rs.9000/- p.m. The Learned Counsel appearing for the Appellant husband pointed out that the Appellant husband is getting pension of Rs.18,000/- p.m. out of which he has been paying Rs.8000/- since July 2017. But in so far as the enhancement to the extent of Rs.1000/- sought by the Respondent wife is concerned, the Learned Counsel fairly conceded that he would leave the same to this Court.

4 In so far as the third direction as regards the marriage expenses of the daughter are concerned, the same has been worked out in view of the fact that the daughter is already married in the year 2011.

5 The Respondent wife Mrs. Sunita Ankush Bhelke is personally present in Court. She is identified by the Learned Counsel Mr. Ruturaj Pawar. When put in the box and queried as regards the divorce by mutual consent, she states that she has instructed her Learned Counsel Mr. Ruturaj Pawar to make a submission in that regard.

6 The Appellant husband Mr. Ankush Bhelke is personally present in Court. He is identified by the Learned Counsel Mr. Deshmukh. When put in the box and queried he is agreeable that he and the Respondent would seek divorce by mutual consent.

7 Both the Learned Counsel i.e. Mr. Deshmukh for the Appellant husband and Mr. Pawar for the Respondent wife state that they would formally tender an application for divorce by mutual consent at 3.00 p.m. today. Statement accepted.

8 In the light of the statements made by the Learned Counsel for the parties which have been recorded in the instant order as also considering the statements made by the Appellant husband and the Respondent wife when put to the test and queried, the above Family Court Appeal which can be said to be the continuation of the original proceedings, can be disposed of in the following terms:

(i) The marriage between the Appellant husband and the Respondent wife solemnized on 17-5-1979 would stand dissolved by mutual consent.

(ii) The Appellant husband would pay permanent alimony in the sum of Rs.9000/- p.m. from 1-3-2018, by 10th of every month directly in the account of the Respondent wife for which the Respondent wife would inform the account number to the Appellant husband. However he would be liable to pay permanent alimony of Rs.8000/- p.m. till February 2018, if not already paid.

(iii) In the event of any two defaults in payment of permanent alimony, the Respondent husband would have to pay an additional amount of Rs. 200/- per month not exceeding three months from the date of default. Thereafter the Respondent wife would be entitled to execute the instant decree.

9 The above Family Court Appeal to stand disposed of. Decree to be drawn up accordingly.

10 The joint application by the Appellant husband and the Respondent wife is tendered by the Learned Counsel at 3.00 p.m. which is taken on record and marked as "X" for identification.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]