

VPH

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL No. 148 OF 2018

Neeraj Ramprakash Shah ... Appellant
Vs.
Nidhi Neeraj Shah @ Nidhi Maheshwari ... Respondent

WITH
FAMILY COURT APPEAL No. 85 OF 2018
WITH
CIVIL APPLICATION No. 72 OF 2018

Nidhi Neeraj Shah @ Nidhi Maheshwari ... Appellant
Vs.
Neeraj Ramprakash Shah ... Respondent

Mr. Atul Mahajan i/b Manoj Harit & Co., for the Appellant in FCA 85/2018, and for the Respondent in FCA. 148/2018.

Mr. Priyal G. Sarda, for the Respondent FCA. 85/2018 and for the Appellant in FCA. 148/2018.

**CORAM : INDRAJIT MAHANTY, &
SARANG V. KOTWAL, JJ.**

DATE : FEBRUARY 22, 2019

PC :

1. Family Court Appeal No. 85 of 2016 has been filed by the Appellant-wife, viz. Nidhi Shah, seeking to challenge the judgment and decree dated 9.10.2017 passed in Petition A. 934 of 2011 by the learned Family Court, Pune, by which order the petition filed by the Respondent-husband seeking judicial

separation and custody of child under S. 10 of the Hindu Marriage Act, 1955 came to be dismissed, with a further direction that the Petitioner-husband shall continue to pay Rs. 20,000/- per month towards maintenance of his minor son till he attains majority, as well as certain reliefs declaring that the Respondent-wife as the custodian guardian of the son with right of access of son to the Petitioner-husband, alongwith various other reliefs. The said judgment and decree is also challenged by the Appellant-husband by filing Family Court Appeal No. 148 of 2018.

2. The notices came to be filed in both the appeals and the respective parties through efforts of their respective counsel came to an amicable resolution of their disputes in terms of the consent terms filed in the Court today, i.e. on 22.2.2019. The said consent terms are signed by both, the Appellant as well as the Respondent, and the verification is also solemnly affirmed before the High Court. The consent terms are taken on record and marked “X” for identification. The terms of the consent terms reads as under:

“A] The Appellant to pay Rs. 10,000/- p.m. towards maintenance of child Aryan and petitioner no. 1 has agreed for the same.

B] There is no dispute regarding the gold ornaments and other articles between both the parties.

C] The permanent custody of the child – Aryan will be retained

by the mother i.e. Respondent and Appellant agrees for the same. The Appellant will be given visitation right to child 1st and 3rd Saturday at Pune and also at the time of school parents meet and Annual function and overnight custody of child Aryan would not be granted to Appellant. It is agreed by the Appellant and Respondent that whenever the Respondent will leave India, she will give custody of child – Aryan to the Appellant and it is also agreed by the Appellant that he will handover the custody of the child – Aryan to the Respondent as soon as she will come back to Pune.

D] Appellant will not file any matter in any court in respect of the custody of the child – Aryan.

E] The Respondent will withdraw the execution proceeding ER-7/2018 pending before Family Court at Pune and also Respondent will withdraw Family Court Appeal No. 85 of 2018 pending before the Hon'ble Bombay High Court. It is also decided to withdraw all the cases, if any, either filed by the Appellant and/or by the Respondent against each other. However, the Appellant (husband) in the event of not paying Rs. 10,000/- per month towards maintenance of the child Aryan the Respondent (wife) will be entitled to claim the same in the appropriate court of law.

F] The Appellant and Respondent will not file any litigation against each other. The Respondent will not claim any right of maintenance in future for herself and for child – Aryan except

clause (A) herein above and also she will not claim any right for herself or for child Aryan in the movable and immovable property belonging to Appellant, as the Respondent – wife is taking the decision in the interest of Child – Aryan.

G] The parties herein agree to approach the family court at Pune as agreed in this consent terms on or before 15 days from the date of Final Order of this Family Court Appeal for the dissolution of marriage u/s 13 B of Hindu Marriage Act.

H] The Respondent herein agrees to accept the abovementioned settlement towards full and final settlement and further states that the Respondent shall not have any claim about Maintenance and Permanent Alimony in future for herself and for her children, except clause (A) herein above.

I] The Appellant – Husband will pay a sum of Rs. 50,000/- (Rs. Fifty Thousand Only) to the Respondent – wife towards full and final settlement of arrears of maintenance amount as per the Orders passed in PA No. 934/2011. The Respondent – wife also agrees to the same and she agree that she will not claim in future about any past arrears from the Appellant – Husband except arrears of Rs. 10,000/- p.m. as mentioned above.”

3. Both the appeals stand disposed of in terms of consent terms, as noted hereinabove and the impugned judgment and

decree passed by the Family Court are suitably modified in terms of the consent terms filed before this Court. The civil application pending in the respective appeal does not survive for consideration, and is accordingly disposed of.

Sd/-

[SARANG V. KOTWAL, J.]

Sd/-

[INDRAJIT MAHANTY, J.]

Vinayak Halemath