

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

FAMILY COURT APPEAL NO.7 OF 2013

Fanil Visharia

.... Appellant

versus

Mrs.Pankti Fanil Visharia

.... Respondent

.....

- Mr.Prakash L. Mahadik, Advocate for Appellant.
- Mr.Sahil Saiyed, Advocate for Respondent.

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.**

DATE : 18th DECEMBER, 2019.

P.C. :

1. Pursuant to the praecipe filed by the learned Counsel for the Appellant, the matter is taken on production board.
2. Heard learned Counsel for the parties.
3. Advocate Mr.Sahil Saiyed appearing on behalf of Respondent undertakes before this Court that he will file his Vakalatnama on or before 21/12/2019.

4. Both the Counsel submitted that matter is settled out of the Court. They tendered consent terms dated 18/12/2019. They submit that both the parties are present in Court.
5. The Appellant as well as Respondent entered into witness box. They admitted contents of the Consent Terms and execution thereof. Consent Terms are taken on record and marked 'X' for identification, which read thus:

“ IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FAMILY COURT APPEAL NO. 7 OF 2013

Fanil Visharia	.. Appellant
V/s	
Pankti Fanil Visharia	.. Respondent

CONSENT TERMS

The parties, the Appellant – Fanil Visharia and the Respondent – Pankti Visharia, have arrived at full and final settlement of all their claims and disputes, as per the following terms :

1. The Appellant and the Respondent got married on 30th January, 2005 at Antonia D'Silva High School Ground, Dadar, Mumbai, in accordance with Hindu Vedic rites and ceremonies, and have been residing separately from each other since 20/5/2008.
2. There is no issue from their wedlock.
3. The Appellant had filed the above Petition No. A-1761/ 2009 in the Family Court at Mumbai seeking dissolution of the marriage solemnized between the Petitioner and the Respondent. The said Petition came to be dismissed on 10/8/2012. Against the said Judgment, the Appellant filed the present Family Court Appeal, which is admitted and kept for final hearing.
4. Over the period of time, after giving thoughtful consideration to all the aspects, and even after taking advice from the elders and family members, the Appellant and the Respondent have realized that their marriage has irretrievably broken down and there is no possibility of their coming together. Accordingly, the Appellant and the Respondent have agreed to dissolve their marriage by converting the present Petition into a Petition for divorce by mutual consent under Section 13 B of the Hindu Marriage Act, 1955 and pray for decree of divorce accordingly.

WITHDRAWAL OF ALLEGATIONS

5. Upon execution of these consent terms and passing orders thereon and subject to receipt of the consideration agreed hereunder, all the allegations made by the Appellant and the Respondent against each other and / or their respective family members, in all the legal proceedings including the present Petition, criminal proceedings, communications exchanged between the parties and / or their family members, relatives and elsewhere, stand unconditionally withdrawn.

WITHDRAWAL OF CRIMINAL CASE AND COMPLAINTS

6. The Respondent had filed criminal case bearing No. 172/PW/2010 against the Appellant and his family members under section 498 (A) and 406 of IPC. The said criminal case came to be dismissed and the Appellant and his family members have been acquitted therefrom by a Judgment dated 9/9/2019. The Respondent has preferred an Appeal against the said Judgment viz. Criminal Appeal No. 100844 of 2019. In view of the present settlement, the Respondent shall not proceed with the said Appeal filed by her in the Sessions Court. The Respondent agrees and undertakes that she shall unconditionally withdraw the said Appeal within 4 weeks of passing of order on the present consent terms and provide certified copy of order of withdrawal of her Criminal Appeal No. 100844 of 2019 to the Appellant.
7. Apart from the above, the Appellant and the Respondent undertake that they shall not pursue any other complaints including NC complaints, written complaints, cases, proceedings filed by the parties against each other and/or filed by the Respondent against the Appellant's family members, and the same shall be treated as unconditionally and perpetually withdrawn.

PERMANENT ALIMONY, MAINTENANCE AND RESIDENCE :

8. Agreed and declared that the Appellant shall pay Rs. 43 lakhs (Rupees Forty Three Lakhs Only) to the Respondent by way of a demand draft at the time of taking present consent terms on record and passing orders thereon of divorce by this Hon'ble Court. This amount shall include;
 - (a) Full and final settlement of all the claims of the Respondent

- including of permanent alimony, residence and maintenance for the past, present and future,
- (b) Full and final settlement with regard to the interim order of maintenance.
- (c) Any other or further claim of the Respondent.
9. On receipt of the said amount, the Respondent agrees and undertakes not to make any other or further claims of whatsoever nature for herself in any Court of law at any time in future.
10. There are following three joint bank accounts of the parties with ICICI Bank. The Respondent undertakes to this Hon'ble Court that, simultaneously, with the receipt of demand draft of Rs. 43 lakhs, the Respondent shall sign necessary documents / forms for deleting her name from the said three bank accounts. The Respondent further undertakes to this Hon'ble Court that within one week from passing of order on the present consent terms, the Respondent shall complete any further necessary formalities including signing necessary documents / forms and remaining present in the bank, for deleting her name from all three bank accounts. The amounts lying in the said three bank accounts shall belong to the Appellant;

ICICI BANK
Powai Branch
Mumbai-400076
Savings Account No.: 002001511405
Fanil Khushal Visharia (Primary Joint Holder)
Pankti Fanil Visharia (Secondary Joint Holder)

ICICI BANK
Powai Branch
Mumbai-400076
Savings Account No.: 002001042060
Fanil Khushal Visharia (Primary Joint Holder)
Pankti Fanil Visharia (Secondary Joint Holder)

ICICI BANK
Dadar Branch
Mumbai-400014
Savings Account No.: 003201034048
Pankti Fanil Visharia (Primary Joint Holder)
Fanil Khushal Visharia (Secondary Joint Holder)

11. There is a joint life insurance policy with LIC being Policy No. 893113910 in the names of the Appellant and the Respondent. The Respondent undertakes to this Hon'ble Court that, simultaneously, with the receipt of demand draft of Rs. 43 lakhs, the Respondent shall sign necessary documents / forms for deleting her name from the said life insurance policy. The Respondent further undertakes to this Hon'ble Court that within one week from passing of order on the present consent terms, the Respondent shall complete any further necessary formalities including signing necessary documents / forms and remaining present at the life insurance office, for deleting her name from said life insurance policy. The amount receivable on closure / surrender of the policy shall belong to the Appellant.

OTHER GENERAL TERMS:

12. Agreed and declared that the Respondent already has with her, in her possession, her entire jewellery, valuables and streedhan and there is no claim by the Respondent against the Appellant and/or his family members.
13. Agreed, declared and undertaken by the Appellant and the Respondent that they shall not interfere in each other's lives or cause any nuisance to each other or their families and friends in future.
14. Agreed and declared that both, the Appellant and the

Respondent undertake not to file any proceedings against each other and / or their family members, either civil or criminal, regarding the above mentioned subject matter.

15. Agreed and declared that save and except what is mentioned herein, neither the Appellant nor the Respondent shall seek any rights and/or division in each other's property at present or in future ("Property" includes assets and debts and all other financial liabilities).
16. Agreed that save and except what is stated herein, the parties shall have no claims of any nature whatsoever against each other and / or their assets.
17. Agreed and declared by the Appellant and Respondent that their consent to sign and enter into present consent terms has not been obtained by force, fraud or undue influence from any person whatsoever.
18. Both the parties accordingly pray that these consent terms be taken on record. The appeal be disposed of in terms of the present consent terms. The decree be drawn accordingly.

Dated this 18th day of December, 2019

Sd/-
Appellant

Sd/-
Respondent

Sd/-
Advocate for Appellant

Sd/-
Advocate for Respondent "

6. Considering the consent terms, following order is passed:

- (a) Family Court is Appeal is disposed of in terms of Consent Terms.
- (b) Decree be drawn accordingly.
- (c) No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)