

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

FAMILY COURT APPEAL NO.7 OF 2017

**WITH
CIVIL APPLICATION NO.271 OF 2019
IN
FAMILY COURT APPEAL NO.7 OF 2017**

Sarika Badal Shinde	 Appellant
versus	
Badal Vijay Shinde	 Respondent

.....

- Mr.Sugandh B. Deshmukh, Advocate for Applicant.
- Mr.Sushant Sudhakar Prabhune, Advocate for Respondent.

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.**
DATE : 09th JANUARY, 2020.

P.C. :

1. Heard learned Counsel for the parties.
2. By this Family Court Appeal, Appellant/Wife is challenging the judgment and decree dated 08/12/2015 passed by the Family Court, Kolhapur in Petition No.A 33 of 2015 allowing Respondent husband's Petition under section 9 of Hindu Marriage Act, 1955. The main contention of the Appellant is that the said order was passed by the Family Court as ex-arte

because no one appeared on behalf of her when the matter was called out for hearing.

3. Both the counsel submit that for last several years, Appellant as well as Respondent are staying separately. Therefore, now it is not possible for them to reconcile the dispute and start living together. Hence, both of them have decided to take divorce by consent before the Family Court at Kolhapur. They further submit that the impugned order passed by Family Court dated 08/12/2015 be set aside.
4. Both the Counsel submit that the matter is settled out of Court. They have tendered Consent Terms dated 09/01/2020 duly signed by the Appellant as well as Respondent along with their parents who are present before this Court.
5. The Appellant as well as the Respondent entered into the witness box. They admitted the contents of Consent Terms as well as the execution thereof. Hence same is taken on record and marked 'X' for identification, which reads thus;

“IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****FAMILY COURT APPEAL NO. 7 OF 2017.****DISTRICT - KOLHAPUR****IN THE MATTER BETWEEN****SARIKA BADAL SHINDE,**

Age - 30 years, Occu. Service,
C/o. Shri. VishwasDattatrayDeshmukh
203,2nd Floor,Atmaram Complex,
Near Deshmukh Petrol Pump,
At & Post:Asthami,
Tal. Roha, Dist. Raigad.

...APPELLANT**.....(ORG. RESPONDENT)****VERSUS****BADAL VIJAY SHINDE,**

Age - 31 years, Occu. Service,
217/7, A Ward, Atharv Apartment,
Flat No.8 & 9, Dudhali,
Tal. Karveer, Dist. Kolhapur.

... RESPONDENT**(ORG. PETITIONER)**

CONSENT TERMS

Whereas the **Respondent and the Appellant** are husband and wife, their marriage having been solemnised at Kolhapur, on 17th of February, 2014 according to the Hindu religion, vaidic rites and ceremonies.

Whereas the **Respondent and the Appellant** have, therefore, without carrying any ill feeling about each other in the future decided to dissolve their marriage by mutual consent on amicable terms and conditions.

1. AGREED, CONFIRMED AND DECLARED THAT the Appellant and the Respondent have decided amicably with free consent to dissolve their marriage by virtue of filing a Divorce Petition by mutual Consent.
2. AGREED, CONFIRMED AND DECLARED THAT the Respondent shall pay to the Appellant an amount of Rs. 20,00,000/- (Rupees Twenty Lakh only) towards one time lump sum full and final settlement of their matrimonial dispute, and on the basis of the aforementioned settlement amount, the parties have agreed to dissolve their Marriage dated 17.2.2014 by Mutual Consent.
3. Out of the settlement amount of Rs.20, 00,000/-, the Respondent shall deposit Rs 5 lakh in the Learned Family

Court, Kolhapur on the date of filing of the divorce petition by mutual consent in the Learned Family Court, Kolhapur on 31/1/2020. Both the parties shall appear before the Learned Family Court, Kolhapur on 31/1/2020 and shall file the divorce petition by mutual consent in the said Court. The remaining amount of Rs. 7,50,000/- (rupees seven lakh fifty thousand only) shall be deposited by the Respondent before the Learned Family Court, Kolhapur on or before 2/3/2020 and the last remaining amount of Rs. 7,50,000/- (rupees seven lakh fifty thousand only) shall be deposited by the Respondent before the Learned Family Court, Kolhapur on or before 10/4/2020 towards the full and final settlement for dissolution of marriage by mutual consent and the Appellant shall not claim any amount in future . The Appellant agrees to withdraw the said amount unconditionally from the Learned Family Court, Kolhapur after the grant of decree of divorce in the Divorce Petition by mutual consent.

4. AGREED, CONFIRMED AND DECLARED THAT the parties have not initiated any other complaint or legal proceedings against each other in any Court and shall end and settle all the disputes without filling any further complaints or legal proceedings against each other.

5. AGREED, CONFIRMED AND DECLARED THAT the parties will / shall not demand, claim anything cash, Jewellery or in kind or any other claim of whatsoever nature from each other and/or from our family members/relatives apart from the settlement amount mentioned herein above. It is agreed that Appellant will not claim any share in the moveable or immoveable property of Respondent and his parents.
6. AGREED, CONFIRMED AND DECLARED THAT whereas Respondent is not liable to give anything to the Appellant or to her family at present and in future apart from the settlement amount.
7. AGREED, CONFIRMED AND DECLARED THAT the parties after divorce will be at liberty to remarry with our any new life partner as per their sweet will and both parties have no any objection for the same against each other.
8. AGREED, CONFIRMED AND DECLARED THAT the parties after seeking the divorce shall not lodge/file any

complaint in any police station and not file any case in any court against each other to harass, fortune, blackmail and for recovery of any claim of whatsoever nature.

9. AGREED, CONFIRMED AND DECLARED THAT after the divorce, the Appellant will be known by her maiden name i.e. Sarika Deshmukh and she will not use, raise, call or address the name and surname of the Respondent in future. Similarly, the Respondent will not raise call or address the name of the Appellant as his wife in future.

10. AGREED, CONFIRMED AND DECLARED by the parties that they will abide by all terms and conditions of this Consent Terms and in case if anyone of the parties breaches any terms or conditions, then the other party will have full right to initiate legal actions against the other party.

11. AGREED, CONFIRMED AND DECLARED by the parties that all the above terms and conditions this Consent Terms are prepared with full understanding and willingly and without any undue influence or pressure.

Dated the 9th day of January, 2020

Appellant: Sarika Badal Shinde Advocate for the Appellant

Respondent: Badal Vijay Shinde Advocate for the Respondent

Witnesses:

1.

2.”

6. Both the Counsel submit that they are filing their consent Petition before the Family Court at Kolhapur for divorce by mutual consent. Both the Counsel and Family Court may be directed to entertain the same immediately without waiting for cooling period i.e. six months as the parties are residing separately for last six years.

7. If the Petition for divorce by consent is filed before the Family Court at Kolhapur, Family Court to decide the same without waiting for cooling period i.e. six months as both the parties are residing separately for last more than six years.

8. Undertaking given by both the parties in Consent Terms is accepted. Hence following order:

- (a) Family Court Appeal No.7/2017 is disposed of in terms of Consent Terms by setting aside the impugned Judgment and Decree dated 08/12/2015 passed by learned Family Court, Kolhapur in Petition No.A 33 of 2015.
- (b) Registry is directed to draw the decree accordingly.
- (c) No order as to costs.
- (d) In view of the disposal of Family Court Appeal in terms of Consent Terms, nothing survives in Civil Application. Hence the Civil Application stands dismissed as infructuous.
- (e) Parties to act on authenticated copy of this order.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)