

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

WRIT PETITION NO.2833 OF 2019

Mr.Hemant Lalit Khemani	...	Petitioner
versus		
Mrs.Prerna Hemant Khemani	...	Respondent

Ms.Minal Chandnani for the Petitioner.

None for the Respondent.

CORAM :- SMT.BHARATI DANGRE, J.

DATE :- MARCH 3, 2020

P.C. :-

1. The learned counsel for the petitioner has placed on record the judgment and decree delivered by the Family Court, Mumbai at Bandra in Petition No.A-3000/2016 (Shri Hemant Lalit Khemani vs. Smt.Prerna Hemant Khemani).

2. By the judgment dated 1st October, 2019, the petition initially filed under Section 13(1)(ia) of the Hindu Marriage Act by the petitioner/husband was converted into a petition for divorce by mutual consent under Section 13-B. The parties agreed for mutual divorce subject to the Consent Terms submitted to the Court and the decree was drawn by the Court in terms of the Consent Terms. By the said Consent Terms, the

petitioner agreed to pay an amount of Rs.30,00,000/- to the respondent/wife towards her claim of permanent alimony/maintenance for past, present and future. It was agreed that the amount would be paid by way of Demand Draft, on the day of decree of divorce. The Consent Terms also mention that in view of the full and final settlement for consent divorce, neither parties shall have any claim of whatsoever nature in future in movable or immovable property of each other and the respondent/wife agreed to withdraw all the criminal complaints, allegations filed against the petitioner and his family. The said decree of the Family Court, Mumbai at Bandra is placed on record. It is taken on record and marked as 'X' for identification.

3. The learned counsel for the petitioner submit that in view of the said judgment and decree, nothing remains in the petition to be adjudicated since the said petition pose a challenge to an order passed on an application claiming interim maintenance under Section 24 of the Hindu Marriage Act, 1955. She would submit that in terms of the final decree passed, the petition does not survive for adjudication.

4. The learned counsel, however, invited my attention to an order dated 19th March, 2019 passed by this Court. The said order directed the petitioner to deposit the arrears of interim

maintenance in terms of the impugned order in the Court within a period of two weeks and subject to such deposit, the stay was granted in favour of the petitioner/husband against the execution proceedings. The petitioner has deposited an amount of Rs.2,86,000/- on 29th March, 2019 in the Registry of this Court. The said amount is lying in this Court.

5. The counsel for the petitioner submit that in view of the final settlement being worked out between the parties, she do not press the present writ petition, but makes a request that the amount deposited by the petitioner towards interim maintenance in terms of the order impugned, which was assailed before the Court, should be returned to the petitioner.

6. The fact that from 29th March, 2019, the respondent did not make any move to withdraw the amount and the further development that on 1st October, 2019, she has given up her claim for past, present and future maintenance in lieu of the amount of Rs.30,00,000/-, which she received by way of permanent alimony, I see no hitch in allowing the petitioner to take the amount of Rs.2,86,000/- back as the claim of the respondent has been settled for a fixed permanent alimony for past, present and future claim of maintenance.

7. The wit petition is, therefore, permitted to be withdrawn with a direction to the Registry to remit the amount of Rs.2,86,000/- (Rs.Two Lakh Eighty Six Thousand only) to the petitioner deposited by him on 29th March, 2019 within a period of two weeks from today.

(SMT.BHARATI DANGRE, J.)