

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

FAMILY COURT APPEAL NO.23 of 2020

Rahul Bhomavat] ... Petitioner
V/s.
Nitika Bhomavat] ... Respondent.

Mr.Advait M. Sethna a/w Mohd. Naved Mulla and Pranav Gohil i/b
Udaipuri & Co. for Petitioner.

Ms.Somaya Singh a/w Ashok Randive, for Respondent.

CORAM : **K.K.TATED &
N.R. BORKAR, JJ.**

DATE : **26 SEPTEMBER, 2020.**
(Through Video Conferencing)

P.C. :

- 1] Heard learned counsel for parties.
- 2] Both the counsels submits that the matter is settled out of Court. They tendered Consent Terms dated 22 September, 2020 which is signed by both the parties advocate on record and notarised. The same is taken on record and marked as 'x' for identification. The same reads thus :

CONSENT TERMS

1. The Appellant abovenamed (Petitioner) in Petition No. A - 1485 of 2013 had filed before the Hon'ble Family Court at Bandra on 16th May, 2013, Petition for Annulment of Marriage solemnised with the Respondent on 12th February, 1997, under Section 12 (I) (ia) of the Hindu Marriage Act, 1955. The said Petition, was Dismissed by the Family Court vide Order dated 19th September, 2018. The Appellant / Petitioner has filed the aforesaid Appeal before this Hon'ble Court for setting aside the Order of the Family Court dated 22nd November, 2019. **The Parties i.e. Rahul Radheshyam Bhomavat, the Appellant / Petitioner and**

Nitika Rahul Bhomavat, the Respondent (referred to 'Parties' for short) do hereby agree to enter into and Execute the following Consent Terms, which will be binding on both the Parties to the said Terms, as set out hereunder: -

2. The Consent Terms are being signed and executed pursuant to the Order of this Hon'ble Court dated 30th July, 2020 which is marked as Exhibit "A" to the said Consent Terms.

3. The Parties hereto agree that the said Consent Terms are executed to amiably end the long standing marital disputes, between the Parties hereto and the litigation filed before the Hon'ble Family Court at Bandra by way of Divorce Petition No. A - 1485 of 2013 which presently stands dismissed vide Order dated 19 September 2018 and all proceedings in that regard, including the proceedings filed by way of Appeal before this Hon'ble Court, culminating in the final dissolution of their marriage.

4. The Parties do hereby agree that the Respondent has been residing at 23, North South Road No. 6, Hatkesh, Vile Parle (West), Mumbai – 400 056, being the Matrimonial Home. The said residential premises is tenanted ancestral property of the Appellant/ Petitioner and his family. She has been residing there since filing of the Divorce Petition in the year 2013. Due to the irreconcilable and irretrievable differences between the Parties, Appellant/Petitioner decided to move out of the Matrimonial Home in May 2013. Since then, the Appellant/ Petitioner and the Respondent have not been cohabiting together and have no relationship with each other since the year 2013 clearly indicating an irretrievable breakdown of their marriage.

5. The Appellant/Petitioner hereby agrees, assures and undertakes to handover the mutually agreed Streedhan as per the Valuation List exchanged. The said Valuation List of Streedhan is annexed as **"Exhibit - B"** to these Consent Terms and thus are deemed as a part of thereof and pay a sum of INR 1.20 Crore as a one-time payment towards Final Settlement which shall be in the nature of permanent alimony to the Respondent. The Appellant/ Petitioner agrees, assures and undertakes that from the amount of 1.20 crore to be paid by Appellant/ Petitioner to the Respondent, he shall pay by way of pay order, a sum of INR 10 lakhs towards the first instalment from the date of passing of the Order/Judgement by this Hon'ble Court on the said Consent Terms. The Appellant / Petitioner shall pay this amount within 10 months commencing from the Order/Judgement passed by this Hon'ble Court in terms of the said Consent Terms. Despite the prevailing pandemic situation and the financially difficult times, he shall make every endeavour to pay the balance amount of 1.10crores even earlier than the maximum stipulated. period of 10 months. The Appellant/Petitioner agrees to transfer the money in the bank account of the respondent with the details as :

Name: NITIKA BHOMAVAT
Bank : SARASWAT CO-OPERATIVE BANK
Branch : MAHIM BRANCH
S. B Account No. : 007200103579293
Ifsc Code: SRCB 0000007

6. The Respondent agrees, assures and undertakes that on payment of receipt of entire amount of INR 1.20 crore from the Appellant / Petitioner, she agrees, assures and undertakes to forthwith vacate the Matrimonial House she is presently residing in, of the Appellant / Petitioner and his family members. The Appellant / Petitioner agrees, assures and undertakes that the Appellant / Petitioner shall give one week's advance notice to the Respondent before making payment of the last instalment towards INR 1.10 crore. This is to so enable the Respondent to vacate the matrimonial house on a fixed, decided date with all her belongings. Thus on such payment, the obligation of the Appellant/ Petitioner to pay to the Respondent the permanent alimony of INR 1.20 Crore and handing over the Streedhan as stated below to the Respondent, shall be considered as duly and fully complied with.

7. The Appellant /Petitioner agrees, assures and undertakes that he shall handover the Streedhan as per the Valuation List exchanged and mutually agreed upon by the Parties hereto 3 days prior to her vacating the matrimonial house. This is to ensure the safety and security of the Streedhan. On receipt of the balance 1.10 crores by her from the Appellant / Petitioner as agreed, the Respondent agrees, assures and undertakes to vacate the Matrimonial House handing over peaceful and vacant possession to the Appellant/ Petitioner.

8. The Appellant/Petitioner agrees, assures and undertakes that he shall, apart from the above, on the day the Respondent vacates the matrimonial house he shall have no objection in her taking with her all personal belongings that she is presently using including her clothes, footwears, handbags, bedsheets, blankets travel bags etc. That the Appellant/Petitioner agrees to hand over her passport on her agreeing to make the appropriate application to the authorities in the prescribed form. The Appellant / Petitioner will render the assistance in making such requisite Application for her passport. The Petitioner / Appellant clarifies that the Respondent is presently in possession of her present ID related documents like Pan card and her Aadhar Card. Also with regard to her Income Tax Returns, the Appellant/ Petitioner states and clarifies that her personal Income Tax Returns since the year 2010 are filed by her own Accountant / Consultant. The Appellant / Petitioner is not in possession of her income tax returns or related documents since the past 10 years. The Appellant/ Petitioner undertakes that

he has No Objection in handing over any other personal document of the Respondent which could be in his possession, on re verification.

9. The Appellant agrees, assures and undertakes that the Plot/ Property more particularly described as 2 plots of 3 acres (approx ..) situated at Risod, Maharashtra purchased by the Appellant /Petitioner and funded exclusively by him, in the name of the Respondent shall continue to remain in her name. However, on signing and execution of the said Consent Terms, the maintenance, upkeep, payment of all charges, expenses, outgoings as applicable in future with respect to the said property, shall be the sole responsibility of the Respondent. The Appellant/ Petitioner shall have no liability and or responsibility in this regard, legally or otherwise till the divorce decree is granted.

10. The Appellant Petitioner had given to the Respondent an amount of about INR 29 Lakhs for investment in securities / stocks when they were cohabiting together. The Appellant undertakes that the Scrips / Shares which are purchased in the name of the Respondent when they were cohabiting together, shall continue to be owned by her.

11. The Respondent is presently holding 710 Equity Shares in her name, in the Company - Rahul Pharma Limited. On signing and execution of the said Consent Terms, the Respondent agrees, assures and undertakes that she will forthwith transfer the same in the name of the Appellant/Petitioner. The Respondent agrees, assures and undertakes that she will fully co-operate in the completion of such formalities in relation to the transfer of the above shares.

12. The Respondent is presently holding 5000 Equity Shares in her name, in the Company - Unistar Tradlink Pvt. Limited. On signing and execution of the said Consent Terms, the Respondent agrees, assures and undertakes that she will forthwith transfer the same in the name of the Appellant/ Petitioner. The Respondent agrees, assures and undertakes that she will fully co-operate in the completion of such formalities in relation to the transfer of the above shares. The Respondent is presently holding a Joint Account along with the Appellant/Petitioner in the State Bank of India, Gokuldham Branch, Goregaon, Mumbai ('SBI Bank' for Short). This is with regards to Savings Account No. 200791155773, where the Appellant / Petitioner is the First Holder, with the said Branch of SBI Bank. On signing and execution of said Consent Terms, the Respondent agrees, assures and undertakes that she will no longer be the Joint Account Holder with respect to the said Account, with the Appellant/ Petitioner. The Respondent agrees, assures and undertakes that she will fully co-operate in furnishing her No Objection and all other documentation / procedure required to be carried out in respect of any such Joint Account. The Appellant

has No Objection in her withdrawing as joint holder/ signatory from such Joint Accounts which will then continue to be operated by the Appellant / Petitioner. The Appellant / Petitioner agrees and assures that he will issue his No Objection to enable the Respondent to withdraw the amount from Bank of Maharashtra, Vile Parle (W) Branch, which is lying in Recurring Deposit amounting to about INR 1 lakh. The Parties hereto agree that the Joint Accounts with Canara Bank, Bank of Maharashtra and State Bank of India where the Respondent is the First Holder, shall be closed.

13. The Respondent is presently holding the Membership of Juhu Gymkhana situated at Juhu, Mumbai along with the Appellant/ Petitioner. On signing and execution of this Consent Terms, the Respondent agrees, assures and undertakes for Cancellation of such Membership and furnish her No Objection and all other documentation / procedure required to be carried out in this regard.

14. The Respondent agrees assures and undertakes that this Hon'ble High Court passing Orders on the said Consent Terms, Respondent shall not use the Last name /Surname 'Bhomavat' as a suffix to her name, in any manner whatsoever. The Respondent agrees assures and undertakes that on which ever document, official or otherwise including PAN Card, Aadhar Card, Passport, Election Card, Bank Documents etc. and the Respondent shall take all such steps required and necessary to remove the said Surname 'Bhomavat' where ever suffixed to her name once the divorce decree is granted.

15. The Parties agrees, assures and undertakes that they will fully co- operate with each other in so far as completion of any procedural and or legal formality/ requirement with regard to any of the above Terms, is concerned, after passing of Orders by this Hon'ble Court. For the sake of convenience, the Respondent agrees, assures and undertakes to furnish her Address and or Contact Details for such purposes after passing of appropriate Order by this Hon'ble Court and after her permanently leaving the Matrimonial Home, as agreed above.

16. The Parties hereby agree and undertake that on vacating the matrimonial house the parties shall sign an undertaking stating the respondent's exit and receiving all of the above i.e. 1.20 crore as permanent alimony; Streedhan as mutually agreed by and between the parties and that the Appellant/ Petitioner has fully complied with all his obligations and commitments under these Consent Terms. Both the parties hereby agree that the said undertaking shall be a conclusive proof of honouring the terms of the consent terms and the same undertaking shall be instrumental in getting the divorce decree from the Learned family court of Mumbai.

17. The Parties hereby agree and undertake that on passing of Orders by this Hon'ble Court on the said Consent Terms, both Parties cease to be Husband and Wife and consequently the Marriage between them stands Dissolved.

18. Both the parties shall be bound by these Consent Terms in entirety and totality. The said Consent Terms are final and legally binding upon both the parties and shall substitute, replace any prior understanding or terms arrived at by and between the said parties. It is pertinent to mention that both the parties shall be bound by the Orders/ Directions of this Hon'ble Court in finalising the divorce proceedings and obtaining the final decree of divorce.

3] In the present proceedings initially, appellant/husband filed Petition for divorce under Section 12(I)(ia) of Hindu Marriage Act, 1955. That was dismissed for default on 19 September, 2018. Thereafter, the appellant filed Civil Miscellaneous Application No.35 of 2019 for condonation of delay under Section 5 of the Limitation Act, 1963 and for restoration of the same. But same was dismissed by the Family Court, Mumbai by Judgment dated 22 November, 2019. Hence, appellant filed the present Family Court Appeal.

4] As the Consent Terms were signed by both parties and advocates, same are accepted. Hence, following order is passed :

a] The Consent Terms are accepted.

b] Family Court appeal stands disposed off in terms of the Consent Terms.

c] The Consent Terms to be treated as part and parcel of the Decree.

d] Undertaking given by both the parties are accepted.

e] Pending applications, if any, stand disposed of.

f] No order as to costs.

g] This order will be digitally signed by the Personal Assistant of this Court. All concerned will act on a digitally signed copy of this order.

[N.R.BORKAR, J]

[K.K.TATED, J]