

Dinesh S. Sherla
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO. 226 OF 2018
WITH
CIVIL APPLICATION NO. 375 OF 2018

Mrs. Shubhangi C. Walve @
 Shubhangi A. Sathe
 V/s.

...Appellant/Applicant.

Mr. Charudatta S. Walve

...Respondent.

Ms Anusha P. Amin for the Appellant/Applicant.

Mr. Rahul Walvekar i/b Mr. Sunil Ghatge for the Respondent.

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

DATE : 4th JANUARY, 2021.

P.C. :

1. Heard learned counsel for the parties.
2. Both the counsel submit that the matter is settled out of court. They also submit that the appellant-wife and the respondent-husband are present in the court.
3. In the present proceedings, the appellant-wife is challenging the judgment and decree dated 9.5.2018 passed by the learned Judge, Family Court, Thane in Petition No.A-312 of 2013, thereby allowing the respondent-husband's petition under Section 13(1)

(ia) of the Hindu Marriage Act, 1955 and granted decree of divorce on the ground of cruelty.

4. Both the counsel submit that both the parties decided to take divorce by mutual consent and thus request is made to set aside the judgement and decree of the Family Court, Thane. To that effect, they made averments in the Consent Terms.

5. Both the parties, i.e., the appellant as well as the respondent entered into the witness box. They admitted the contents of Consent Terms and execution thereof.

6. The appellant-wife submits that today she received Demand Draft of Rs.3,20,000/- as stated in clause No.4(v) and (vi) of the Consent Terms. The statement is accepted.

7. The Consent Terms are taken on record and marked as "X" for identification and same is accepted. The Consent Terms read thus:

“CONSENT TERMS

The Appellant is the Original Respondent and the Respondent is the Original Petitioner. The Respondent had filed a Petition bearing No.A-312/2013 for divorce under section 13(1)(ia) of Hindu Marriage Act, 1955 praying for divorce on the grounds of cruelty and the same was resisted by the present Appellant. The said suit was allowed by the Learned Family Court. Being aggrieved and dissatisfied by the judgment and order dated 09/05/2018 passed by the Learned Family Court, Thane in Petition No.A-312/2013, the Appellant has preferred the present Family Court Appeal before this Hon'ble High Court. The Appellant and Respondent are now ready and willing to settle the matter amicably and therefore the parties are also consenting for the divorce, i.e. divorce by mutual consent by converting the original petition under the present terms and condition.

- 1) The Appellant and Respondent in the appeal are husband and wife respectively. Both Appellant and Respondent have been in dispute with each other since 2013 and since then are residing separately.
- 2) The Appellant and Respondent have now decided to settle all the matter amicably.
- 3) The Appellant and Respondent in the present appeal state that there is no issue born out of the said wedlock.
- 4) Against the order dated 09/05/2018 passed by the Learned Family Court both the Appellant has preferred the present Family Court Appeal bearing no.226/2018. During the pendency of the said Appeal i.e. Family Court Appeal no.226/2018 the Appellant and Respondent have decided to amicably settle the matter outside the court and hence the settlement is reduced into writing. The Appellant and Respondent are ready to settle the disputes on the following terms and conditions:
 - i. The Appellant and Respondent have decided to dissolve their marriage by mutual consent. Accordingly, both the parties have given their

- consent for dissolution of marriage by consent.
 - ii. The Appellant and Respondent do hereby withdraw all the contention/allegations made against each other in the divorce Petition No. A-312/2013 as well as in Domestic Violence Petition bearing Criminal M.A. No. 96 of 2014.
 - iii. That in light of the present understanding between the Appellant and Respondent, the impugned judgement and order passed in divorce Petition No. A-312/2013 be quashed and set aside entirely.
 - iv. That this Hon'ble High Court be pleased to dissolve the marriage between the Appellant and the Respondent mutually and by the consent of Appellant and Respondent.
 - v. That the Respondent has agreed to pay full and final settlement amount of Rs.3,20,000/- by Demand Draft bearing No.004253 dated 23/12/2020 drawn on Bank of India, to the Appellant wife.
 - vi. The said agreed amount of Rs.3,20,000/- (Rupees Three Lakhs Twenty Thousand only) shall be paid on the day of the execution of the present consent terms in the Hon'ble High Court.
 - vii. The Appellant/wife undertakes that, upon execution of this consent terms the Appellant/wife shall unconditionally withdraw the pending Criminal M.A. No. 96 of 2014 filed under Domestic Violence Act.
- 5) The Appellant and Respondent have agreed that they will withdraw their respective allegations made against each other. The Appellant wife shall not claim any maintenance in future.
- 6) That both Appellant and Respondent further declare that they have given their respective consent for the Decree of Divorce on their own accord and on free will and the same is without any fear and coercion of whatsoever nature.

- 7) The Appellant and Respondent declare that the contents of the present consent terms are true and correct and the same are prepared as per their respective instructions.
- 8) In light of the captioned consent terms the matter be disposed off accordingly and decree of divorce by mutual consent be drawn accordingly.

Dated:- 04.01.2021

Place :- Mumbai

Sd/-	sd/-
The Appellant	Advocate for the Appellant
(Mrs. Shubhangi Charudatta	(Ms. Anusha P. Amin)
Walve @ Shubhangi Ashokrao Sathe)	
sd/-	sd/-
The Respondent	Advocate for the Respondent
(Mr. Charudatta Shashikant Walve)	(Mr. Sunil Ghatge)"

8. In view of Consent Terms filed by the parties, the following order is passed.

- a. Family Court Appeal is allowed in terms of Consent Terms.
- b. The Consent Terms to be treated as part and parcel of the decree.
- c. The marriage of the appellant-wife and the respondent-husband is dissolved as per Section 13B of the Hindu Marriage Act, 1955 by mutual consent as stated in the Consent Terms.
- c. No order as to costs.
- d. Pending Civil Application stands disposed of

[N.R.BORKAR, J.]

[K.K.TATED, J.]