

Ct. 02.8
No. 14
84
akb
2022

C.O. 146 of 2022

**Preenaka Saha nee Maji
-Versus-
Kiran Kumar Maji**

**Mr. Kaustav Bagchi
Mr. Debayan Ghosh
Ms. Priti Kar**

...For the Petitioner

**Ms. Shahina Haque
Ms. Poulumi Chakraborty**

...For the Opposite Party

This is an application under Section 24 of the Code of Civil Procedure seeking transfer of a matrimonial suit from the Court of the learned Additional District Judge at Haldia, Purba Medinipur to the Court of the learned Additional District Judge, 1st Court at Barrackpore, District – North 24-Parganas.

It appears that a coordinate Bench of this Court referred the matter to a learned Mediator in order to resolve the disputes and difference between the parties by way of amicable settlement.

As it appears from the case record, the parties appeared before the learned Mediator and the disputes and differences between them have been ironed in the following terms:-

“Insofar as the ornaments, jewellery and utensils are concerned, Mr. Kiran Kumar Maji, the Second Party has returned all the items to the First Party viz., Ms. Preenaka Saha in presence of the mediator and she has accepted the same.

Likewise, Ms. Preenaka Saha, the First Party has returned whatever ornaments and jewellery were in her possession o Mr. Kiran Kumar Maji.

It is agreed by and between the parties that Mr. Kiran Kumar Maji, the Second Party, will pay an aggregate

sum of Rs.22.5 lakhs to Ms. Preenaka Saha in full and final settlement.

Out of the aforesaid amount, a sum of Rs.7.0 lakhs will be paid by Demand/Bank Draft by Mr. Kiran Kumar Maji, when the filing of the mutual divorce petition will take place before the appropriate Court in Barrackpore.

The said sum will be paid by way of Demand Draft, which will be kept in the custody of Learned Mediator, who will hand over the same to Ms. Preenaka Saha at the time of signing the concerned petition as and when the parties mutually agree.

The balance amount of Rs.15.5 lakhs will be paid, by way of Demand Draft, on the date of final hearing/judgment of the divorce petition.

Kr. Kiran Kumar Maji will keep the said Demand Draft with the Learned Mediator, who will hand over the same to Ms. Preenaka Saha at the time of passing of the Judgment on the date stipulated by the Learned Court.

Ms. Preenaka Saha will withdraw the C. Case/33/2022 pending before the Learned Additional Judicial Magistrate at Barrackpore under section 406 of the Indian Penal Code at the earliest on the date, the mutual divorce case is filed.

Ms. Preenaka Saha further undertakes to withdraw the Money Execution Case, being No. MEX/111/2020, pending before the Learned 4th Judicial Magistrate at Barrackpore under section 125(3) of the Criminal Procedure Code on the date the mutual divorce case is filed.

Ms. Preenaka Saha, the First Party, undertakes to withdraw her claim for Maintenance by filing an application under section 127 of the Criminal

Procedure Code and the same will be withdrawn by her on the date of final hearing of the mutual divorce.

The General diaries (GDEs) filed by both the parties will not pursued any further by either of the parties and take necessary steps will be taken by the parties for their quashing.

Mr. Kiran Kumar Maji, the Second Party, undertakes to withdraw the Matrimonial Suit, being No. MAT Suit/373/2021, pending before the Learned Additional and District Sessions Judge at Haldia under section 27(1)(b)(d) of the Special Marriage Act, 1954 for dissolution of marriage, with a view to facilitate divorce by mutual consent.

Signed this Terms of Settlement on this 25th day of July, 2022.”

The relevant part of the settlement insofar as the instant revisional application is concerned is to this effect that the opposite party, Kiran Kumar Maji, undertakes to withdraw the matrimonial suit, being No. MAT 373 of 2021 pending in the Court of the learned Additional District Judge at Haldia, Purba Medinipur under Section 27(1)(b)(d) of the Special Marriage Act, 1954 for dissolution of marriage with a view to facilitate divorce on mutual consent.

As the terms of settlement arrived at between the parties suggest, the parties will file an application for dissolution of marriage on mutual consent on fulfilment of the settlement arrived at between them.

Learned Lawyers appearing for the parties submit that the parties will file an application for dissolution of marriage on mutual consent in terms of the settlement arrived at soon.

Learned Lawyer appearing for the petitioner submits that in view of the decision in the case of *Amardeep Singh Vs. Harveen Kaur*, reported in (2017) 8 SCC 746 and in the recent decision dated 11th December 2021 rendered by the Hon'ble Apex Court in Civil Appeal No. 7650 of 2021 arising out of SLP (Civil) No. 20108 of 2021 (*Amit Kumar Vs. Suman Beniwal*), the statutory cooling off period of six months may be waived to get the application for dissolution of marriage on mutual consent disposed of soon after filing of the application.

Since, the parties have agreed to withdraw the matrimonial suit, being No. 373 of 2021, I think the instant revisional application should be disposed of by passing the following direction.

The opposite party shall withdraw the matrimonial suit, being No. 373 of 2021 in terms of the settlement arrived at between them and thereafter the parties shall file application for dissolution of marriage on consent before the learned Additional District Judge, 1st Court at Barrackpore, North 24-Parganas.

In view of the decision in the case of *Amardeep Singh (Supra)* the mandatory cooling off six months period stands waived.

After the application seeking dissolution of marriage of the parties on mutual consent is filed, the concerned Court below shall dispose of the application as expeditiously as possible treating the mandatory six months' cooling off period has stood waived.

With the aforesaid direction, C.O. 1477 of 2020 stands disposed of.

There will, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties, on priority basis upon compliance of all formalities.

(Rabindranath Samanta, J.)