

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

WRIT PETITION NO. 491 OF 2022.

RIJVANA RAZASHAD SHAIKH	... Petitioner.
VS	
RAZASHAD SHAIKH	...Respondent.

Mr. A. Bhobe and Ms. S. Shaikh, Advocates for the petitioner.

Mr. I. Agha and Ms. V. Fernandes, Advocates for the respondent.

CORAM: G. S. KULKARNI, J.
DATE: 12 OCTOBER 2022.

P.C.:

1. This petition under Article 227 of the Constitution of India, assails an order dated 24 August 2022 whereby the learned trial Judge has ordered that the suit be proceeded against the defendant ex-parte.
2. It has transpired that during the pendency of the present proceedings the learned Judge proceeded and ultimately the marriage Petition No.169/2021/III as filed by the respondent has been decreed by judgment and order dated 19 September 2022 passed by the learned Civil Judge, Senior Division at Margao whereby the Marriage Petition of the respondent has been allowed by declaring that marriage between the petitioner and respondent stands dissolved by way of

divorce and the marriage entry being ordered to be cancelled.

3. The petitioner in these circumstances has approached the learned Civil Judge, Senior Division by filing an application filed under Order 9 Rule 13 of CPC for setting aside the said ex-parte decree. The said proceedings are at large.

4. In the aforesaid circumstance, the present proceedings which arise out of a prior order dated 24 August 2022 directing that the proceedings of the marriage petition proceeded “ex-parte” against the petitioner, have certainly become infructuous.

5. The petition is accordingly disposed of as infructuous. However, there is something more which is required to be added namely, in the event that the petitioner in the future feels the necessity to revive the present proceedings depending on the facts and circumstances as may prevail at the relevant time, the petitioner shall have the liberty to revive the said proceedings and all contentions of the parties in that regard are required to be kept open.

6. With such liberty, the petition is disposed of as infructuous. No Costs.

7. Proceedings between the parties are divorce proceedings, considering the facts and circumstances of the case it would be appropriate that the application filed by the petitioner under Order 9 Rule 13 of the CPC be heard as expeditiously as possible and be decided within one month from today.

G. S. KULKARNI,J.

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