

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.415 OF 2019

Rajendra Ganu Bhoir

....Appellant

V/s.

Rupali Rajenra Bhoir

...Respondent

(Nee Ms. Asmita Bhagwan Thakare)

C/o Bhagwan Namdeo Thakare

Mr. Rajesh Sudhakar Datar, for the Appellant.

Smt. Neeta P. Karnik, for the Respondent.

CORAM : MADHAV J. JAMDAR, J.

DATE : 2nd DECEMBER, 2022

P.C.:

1. Mr. Rajesh S. Datar, learned counsel appearing for the Appellant and Smt. Neeta P. Karnik, learned counsel appearing for the Respondent tenders Consent Terms. The said Consent Terms are taken on record and marked 'X' for identification.

2. The said Consent Terms read as under:

“CONSENT TERMS

1. The Appellant has filed the above Second Appeal

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for challenging Judgment and Order dated 2nd March, 2019 passed by the learned District Judge - 6, Thane in Regular Civil Appeal No.153 of 2014 thereby confirming Judgment and Decree dated 24th February, 2014 passed by the learned Civil Judge, Senior Division, Link Court, Bhiwandi in Marriage Petition No.85 of 2006.

2. The Appellant had filed the aforesaid Marriage Petition No.85 of 2006, under Section 13(1) (ia) and (ib) of the Hindu Marriage Act, 1955, praying for dissolution of marriage between the Appellant and the Respondent solemnized on 4th June, 2002. A male child viz. Adwait was born out of the wedlock between the Appellant and the Respondent on 15th October, 2003 and he is in custody of the Respondent since his birth. Apart from filing of the said Marriage Petition No.85 of 2006, no other proceeding (Civil or Criminal) is pending between the parties.
3. After filing of the above Second Appeal, the parties were referred to mediation of Shri S. G. Deshmukh, Advocate, High Court, Mumbai by Order dated 13th August, 2019, passed by Hon'ble Mr. Justice R. G. Ketkar in the above Second Appeal. In view of the fact that the parties were admittedly staying separately from each other since 13th July, 2003 i.e. for over a

period of 19 years, the mediation proceeded accordingly and the parties negotiated the terms of settlement and arrived at a decision to dissolve the marriage solemnized between the Appellant and the Respondent by a Decree of Divorce by mutual consent.

4. The parties also agree that the Appellant shall pay a sum of Rs. 10,00,000/- (Rupees Ten Lakh only) to Adwait towards full and final amount of maintenance for him by way of Demand Draft. The Respondent agrees that she shall not claim any maintenance on whatsoever ground from the Appellant in future upon the Appellant paying a sum of Rs. 10,00,000/- (Rupees Ten Lakh only) to Adwait as aforesaid.
5. The parties also agree to withdraw all the allegations made against each other in the pleadings in the proceedings of the aforesaid Marriage Petition or anywhere else.
6. The parties therefore pray that the parties be permitted to convert Marriage Petition No.85 of 2006 filed by the Appellant under the provisions of Section 13(1) (ia) and (ib) of the Hindu Marriage Act, 1955 into a Petition under Section 13B of the Hindu Marriage Act, 1955 for divorce by mutual consent and upon such conversion,

the marriage between the Appellant and the Respondent solemnized on 4th June, 2002 shall stand dissolved by a Decree of Divorce by mutual consent on the following terms and conditions:

- (i) The allegations made by the parties against each other either in the proceedings of the aforesaid Marriage Petition or anywhere else shall stand unconditionally withdrawn.
- (ii) The Appellant has drawn a Demand Draft dated 30th November, 2022 in the sum of Rs 10,00,000/- (Rupees Ten Lakh only) bearing no 145878 in the name of Adwait Rajendra Bhoir on The Thane District Central Co-operative Bank Ltd, Kudus Branch and the same is handed over to the Respondent for and on behalf of Adwait and the Respondent acknowledges receipt thereof.
- (iii) The Respondent undertakes not to claim any maintenance for her or Adwait from the Appellant in future on any count whatsoever. However, this is without prejudice to the right of Adwait to the ancestral properties of the Appellant.
- (iv) The parties undertake that they shall not

initiate any proceedings in connection with their marriage against each other on any count whatsoever in future.

(v) The parties shall bear their own costs of the proceedings.”

3. The Appellant and the Respondent are personally present in the Court and state that the Consent Terms are read by them and the same are as per their instructions and they are agreeable to them.

4. In view of the above Consent Terms, the Marriage Petition No. 85 of 2006 filed under the provisions of Section 13(1) (ia) and (ib) of the Hindu Marriage Act, 1955 is allowed to be converted into a Petition under Section 13B of the Hindu Marriage Act, 1955.

5. As the parties are admittedly not staying together for about 19 years, the period of 6 months as contemplated under Section 13B (2) of the said Act is waived off.

6. Mr. Datar, learned counsel appearing for the Appellant has handed over the Demand Draft of Rs. 10,00,000/- (Rupees Ten Lakh Only) bearing no. 145878 dated 30th November, 2022 to Smt. Neeta Karnik in the Court issued in

favour of the Adwait Rajendra Bhoir.

7. In view of the consent terms, the marriage between the Appellant and the Respondent solemnized on 4th June, 2002, stand dissolved by decree of divorce by mutual consent on the terms and conditions which are set out in the Consent Terms.

8. This Court records appreciation of work of Shri. S. G. Deshmukh, Advocate who acted as 'Mediator' in this matter.

9. The Second Appeal is disposed of in the above terms with no order as to costs.

(MADHAV J. JAMDAR, J.)