

Prajakta Vartak

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**PARSI SUIT NO. 25 OF 2017
WITH
CUSTODY PETITION NO. 1 OF 2017
WITH
COUNTER CLAIM NO. 3 OF 2018
WITH
NOTICE OF MOTION (SUITS) (L) NO. 1591 OF 2017
WITH
INTERIM APPLICATION (L) NO. 5001 OF 2020
IN
CUSTODY PETITION NO. 1 OF 2017
WITH
NOTICE OF MOTION NO. 392 OF 2018
IN
COUNTER CLAIM NO. 3 OF 2018
WITH
CONTEMPT PETITION (I) NO. 6382 OF 2021
IN
NOTICE OF MOTION (L) NO. 1591 OF 2017**

Rustom Meherdaad Battliwala ...Plaintiff

V/s.

Armozee Rustom Battliwala ... Defendant

Ms. Taubon Irani with Mr. Vinay Kanodia and Ms. Sachi Lodha for Plaintiff.

Ms. Pooja Jalan with Airman Ansari for Defendant.

CORAM : G.S. KULKARNI, J.

DATE : JUNE 27, 2022.

PC.:

1. Learned counsel for the parties have tendered Consent Terms as entered between the plaintiff and the defendant stating that the parties have resolved all the disputes not only in the suit but in the other proceedings filed against each other. They have also prayed that Parsi Suit No.25 of 2017 be permitted to be converted into a suit for divorce

by mutual consent under Section 32B of the Parsi Marriage and Divorce Act, 1936 (for short, “the Act”).

2. Both the parties are present before the Court. They state that before putting their signatures on the consent terms, they have carefully gone through the consent terms and are agreeable to all the terms and conditions as set out in the consent terms. Learned counsel for the parties have also put their signatures on the consent terms. The consent terms are accordingly taken on record and marked “X” for identification.

3. A perusal of the consent terms makes it quite clear that the parties have considered and addressed all necessary issues in agreeing for a decree of divorce by mutual consent. There is an agreement on permanent alimony. There are terms and conditions in regard to the custody and access, maintenance, education expenses, travel etc. of son Arhaan, age 12 years. The parties have set out in paragraph 5 of the consent terms their prayer that the suit be converted into a petition under Section 32B of the Act.

4. In the above circumstances, having perused the consent terms as also having interacted with the parties who are present in the Court, in my opinion, the prayer as made by the parties for the proceedings of the suit to be converted into a suit under Section 32B of the Act for a decree of divorce by mutual consent, needs to be accepted.

5. The consent terms record that a fair settlement is arrived between the parties which is by their free will and consent as also agreed by them before the Court. Admittedly, the parties are also living separately since June 2016 and hence the statutory requirements essential under Section 32B of the Act for this Court to decree a Section 32B proceeding stand

satisfied. The proceedings are accordingly required to be disposed of by the following order:-

ORDER

- i. The suit is permitted to be converted into a suit under Section 32B of the Parsi Marriage and Divorce Act, 1936.
- ii. The suit is decreed in terms of the consent terms dated 24 June, 2022 (marked "X" for identification).
- iii. The undertakings as set out in the consent terms stand accepted.
- iv. The parties clarify that TATA AIA Life Insurance policy as set out in paragraph 10(d) and reference to the same in paragraph 11(c) is to the one and same policy.
- v. An amount of Rs. 1,50,000/- which stands deposited with the registry as stated in clause 7 of the consent terms, is permitted to be withdrawn.
- vi. The petition is accordingly disposed of in terms of the consent terms.
- vii. The other proceedings namely custody petition, counter claim, contempt petition, notices of motion, interim application also would not survive. They are accordingly disposed of by consent of the parties.
- viii. Office is directed to draw a Decree of Divorce under Section 32B of the Parsi Marriage and Divorce Act, 1936 between the plaintiff and the defendant and make it available to the parties within a period of four weeks from today.
- ix. The consequential entries in the register of marriage as maintained by the Registrar of Parsi Marriages, High Court, Bombay be also carried out after the decree is drawn up.

[G.S. KULKARNI, J.]