

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

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FAMILY COURT APPEAL NO.176 OF 2019

Jayesh Amrutlal Solanki

.. Appellant

Versus

Sarla Manoj Kakaiya

.. Respondent

Mr.Chandraprakash K. Tripathi for the appellant.

Ms.Saili N. Dhuru for the respondent.

Both the parties present.

**CORAM : R.D. DHANUKA &
M.M. SATHAYE, JJ.**

DATE : 27th January 2023

P.C.:-

. Present appeal arises out of the order passed by the Judge, Family Court No.6, Mumbai dismissing the Petition No.A-142/2005 filed by the appellant before the Family Court inter alia praying for an appointment of the Court Commissioner with a direction to open the seal of the Cupboard lying at the address of the appellant and for various other reliefs.

2. This matter was on board before this Court on 6th January 2023 when this Court after hearing the learned counsel for the parties recorded their agreement that their clients would apply jointly for a statement of account from Unjha Nagarik Sahakari Bank Ltd., Unjha and State Bank of India, Unjha where certain Fixed Deposits were standing in these banks. This Court recorded that once such statement is placed on record, dispute can be settled amicably. This Court will hear the parties

on the amount which can be shared by and between the parties out of the sale proceed of Fixed Deposits.

3. Today both the Appellant and Respondent are present in Court. Learned counsel for the parties have produced copies of the bank statements. According to the bank statement, total amount of Fixed Deposits is in the sum of Rs.4,12,859/- in the bank account.

4. Mr.Tripathi, learned counsel for the appellant, on instructions, states that the respondent has withdrawn a sum of Rs.57,000/- from the joint account of the Appellant with the Respondent, when the Appellant was in police custody. The said amount shall be deducted from the sale proceeds of the Fixed Deposits.

5. Ms.Dhuru, learned counsel for the respondent, on instructions, states that the amount was withdrawn before the decree of divorce passed by the Judge of the Family Court.

6. We are thus not inclined to deduct the said amount of Rs.57,000/- from the Fixed Deposits amount. At this stage, learned counsel for the parties jointly states that the said amount of Rs.4,12,859/- can be divided between the Appellant, son of the parties Mr.Jay Jayesh Solanki and the Respondent equally. Learned counsel for the Respondent, on instructions, states that her client has no objection if the said amount is distributed in three equal parts as aforesaid.

7. By consent of parties, following order is passed :-

(i) The amount of Rs.4,12,859/- shall be distributed equally

amongst the Appellant, son of the parties Mr.Jay Jayesh Solanki and the Respondent by the respective banks i.e. Unjha Nagarik Sahakari Bank Ltd., Unjha and State Bank of India, Unjha from the respective Fixed Deposits deposited by the Appellant and Respondent jointly, within two weeks from the date of communication of this order.

(ii) Both the banks to issue cheques or pay orders as the said banks may desire in favour of these three parties.

(iii) The impugned order passed by the Judge of the Family Court No.6 is substituted by this order.

8. Parties have agreed to resolve the dispute in aforesaid manner. In the aforesaid settlement arrived at between the parties, the Appellant does not press other prayers which are the subject matter before the Family Court. The entire dispute is settled in aforesaid manner.

9. Family Court Appeal is disposed of in aforesaid terms. No order as to costs. Parties as well as the aforesaid two banks to act on the authenticated copy of this order.

M.M. SATHAYE, J.

R.D. DHANUKA, J.