

**IN THE PARSİ CHİEF MATRİMONİAL COURT AT BOMBAY
ORDINARY ORIGINAL JURISDICTION
PARSİ SUIT NO.24 OF 2022**

Jasmin Rayomand Gazdar ... Plaintiff No.1

And

Rayomand Behram Gazdar ... Plaintiff No.2

Mr. Abhijeet C. Mahadeokar for the Plaintiffs.

Ms. Jasmin Rayomand Gazdar, Plaintiff No.1 is present.

Mr. Rayomand Behram Gazdar, Plaintiff No.2 is present.

CORAM : ARIF S. DOCTOR, J.

DATE : 24TH APRIL 2023

P.C. :

1. The present Suit is filed under Section 32B of the Parsi Marriage & Divorce Act, 1936 ("the PMD Act"), whereby the Plaintiffs have prayed for decree of divorce by mutual consent.

2. The facts briefly stated are as follows :-

- (i) The Plaintiffs got married on 18th January 1993 in Mumbai at Sethna Agiary according to the Parsi Zoroastrian rites and customs. The marriage was thereafter registered before the Registrar of Parsi Marriages on 28th April 1993. The true extract of the said Marriage Certificate dated 28th April 1993 is annexed to the Plaint.

- (ii) There are no children from the said marriage.
- (iii) After the marriage, the Plaintiffs cohabited and resided together at Flat No.1, Daruwala Building, Nana Chowk, Grant Road, Mumbai – 400 007. Thereafter, they shifted to their new residential premises at Borivali.
- (iv) During the course of their marriage, irrevocable differences cropped up between the Plaintiffs, which brought about an unpleasant relationship and it ultimately leading to irretrievable breakdown of the marriage. Despite several attempts made by the family members, friends and well-wishers of the Plaintiffs to resolve the disputes and differences, the same have proved futile.
- (v) The Plaintiffs have been living separately since 10th September 2018. They have been residing continuously apart from that date and have ceased to cohabit as husband and wife before the date of the filing of the present Suit.
- (vi) It is in these circumstances that parties have filed the present Suit for seeking dissolution of the marriage by consent under Section 32B of the PMD Act.

3. The Plaintiffs have entered into the Consent Terms, which are annexed as Exhibit “B” to the Plaint. The Plaint sets out that the Plaintiffs filed this Suit and entered into the Consent Terms freely, voluntarily and out of their own volition. The Consent Terms set out that there are no claims/demands of any nature pending or that will be raised in the future by the Plaintiffs against each other.

4. The Plaintiffs are present in Court today. They have identified by their Advocate. The Plaintiffs have administered oath. They have also tendered their respective affidavits by way of evidence as per the provisions of Sub-Rule (1) of Rule 4 of Order VIII of the Code of Civil Procedure. They have deposed to the correctness of the contents of the same. Accordingly, the testimony of the Plaintiffs as contained in their respective affidavits of evidence stand accepted so as to true and correct facts as placed before the Court in support of the averments made in the Plaint.

5. I have heard learned Counsel appearing on behalf of the Plaintiffs. Insofar as the requirement for this Court to exercise jurisdiction under Section 32B of the PMDC Act is concerned, from the perusal of the record as also having interacted with the parties, it appears to be not in dispute that the

Plaintiffs are living separately for a period of more than one year. It is quite clear that the Plaintiffs have not been able to live together harmoniously due to irreconcilable differences which have arisen between them as stated by them in the plaint as also in their affidavit of evidence. Thus, there is sufficient material for this Court to exercise jurisdiction under Section 32B of the PMD Act as the Plaintiffs are not in a position to live happily in their marriage. The consent of the parties for a decree of divorce by mutual consent is also a free consent. In these circumstances, the present Suit for divorce by mutual consent would be required to be decreed.

6. The Consent Terms as entered between the Plaintiffs stand accepted and shall form a part of the decree to be drawn by the Court. The undertakings, if any, in the Consent Terms stand accepted. The Suit is accordingly decreed in terms of prayer clauses (a) and (b), which read as follows :-

- "a) that the marriage between the Plaintiffs solemnized on 18th January, 1993 be dissolved by mutual consent under Section 32-B of The Parsi Marriage and Divorce Act, 1936, and the Decree be passed in their favour;*
- b) For Orders in terms of Consent Terms marked as EXHIBIT 'B' to the Suit, to form part of the Divorce Decree;"*

7. The Registry to draw up a Decree of Divorce by mutual consent and the same be made available to the Plaintiffs within a period of four weeks from today. There shall be no order as to costs.

8. Parsi Suit is therefore disposed of in the above terms.

(ARIF S. DOCTOR, J.)