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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 30.05.2023

+ **MAT.APP.(F.C.) 49/2023 & CM APPLS. 7674-76/2023**

RAJEEV SHARMA

..... APPELLANT

versus

DEEPTI SHARMA

..... RESPONDENT

Advocates who appeared in this case:

For the Appellant: In person.

For the Respondent: Mr. Sagar Saxena, Mr. Parmeet Singh and Mr. Sarthak Pandey, Advocates with respondent in person.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE MANOJ JAIN

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns order dated 06.04.2022, whereby the Family Court has allowed the petition filed by the respondent seeking divorce and by ex-parte decree dissolved the marriage between the parties by decree of divorce and order dated 29.10.2022 whereby his application



under Order IX Rule 13 was dismissed.

2. After a lot of interaction, the parties have settled their disputes and agreed to the following terms:-

(i) *Parties have undertaken to dissolve their marriage by way of divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955. Parties further undertake that they shall approach the Family Court by way of a joint petition within a period of one week from today.*

(ii) *Appellant undertakes that the respondent/wife shall have the absolute custody of the son, Aryan Sharma (Date of Birth-14.10.2011) and she shall be deemed to be the lawful guardian of the son. Daughter of the parties, Ms. Arushee is already a major.*

(iii) *It is undertaken that the appellant shall transfer his share in the following properties; (a) Apartment at 402, Tower-8, The Close North, Gurgaon-122018; (b) Shop at Ghaziabad bearing number FF-21, Crossings Galleria, Ghaziabad and; (c) Plot at Suncity, Ghaziabad, which are in the joint names of the parties, in favour of the respondent. Appellant undertakes that he shall surrender his rights in the said property in favour of the respondent and execute all documentation required for the*



same at the cost of the respondent. This exercise, he undertakes, shall be completed within a period of one month.

(iv) Parties had jointly booked apartment No.2202 at Apex Tower, NOIDA at Supertech. It is undertaken by the appellant that the booking shall be transferred in favour of the respondent and appellant shall execute necessary documentation required for the said purpose in favour of the respondent and thereafter, it shall be the sole entitlement of the respondent to settle with the builder and the concerned bank for refund of the amount paid by her for the same.

(v) Appellant claims that he had contributed towards purchase of 300 square yard plot at Yamuna Expressway (Allotment No. YEA013891) in the name of the respondent. It is disputed by the respondent. Appellant, however, undertakes that he shall not claim any right, title or interest in the said plot and the same shall belong solely and absolutely to the respondent.

(vi) Appellant contends that he had purchased certain Kisan Vikas Patra, Indira Vikas Patra, post office schemes, Public Provident Fund, fixed deposits, insurance policies etc. in the name of the respondent by contributing from his salary. This is



once again disputed by the respondent. Appellant, however, undertakes that all Kisan Vikas Patras, Indira Vikas Patras, post office schemes, Public Provident Fund, fixed deposits, insurance policies etc. that are standing in the name of the respondent shall belong solely and exclusively to her and he shall not claim any right, title or interest in the same.

(vii) Appellant further undertakes that the Ciaz car bearing registration number HR 26 DM 7640 purchased by the appellant shall be transferred in the name of the respondent.

(viii) It is agreed that the Naval uniform, medals, photographs, albums etc. which are in the house of the respondent, shall be handed over by the respondent to the appellant within one week from today. It is also agreed that the LPG connection which is installed in the Gurugram property shall be got transferred in favour of the appellant. Respondent undertakes to sign all requisite documents for transfer of the said connection in favour of the appellant.

(ix) Respondent undertakes that she shall surrender her right in the apartment at Greater Noida, which is in the joint name of the parties, in favour of the appellant and the same shall belong exclusively to the appellant, husband. Respondent undertakes



that she shall pay a sum of Rs.6.25 lakhs to the appellant towards the balance payment that is to be made towards the said property. She undertakes to pay the said amount at the time of recording of the statement for first motion.

(x) Appellant undertakes that whatever documents, passport or other educational qualification documents of the respondent or the children are available with him, he shall handover the same to the respondent within one week from today.

(x) Appellant undertakes that all the gold jewellery and precious items, except cash, if any, in the two joint lockers bearing No.253 and 359 in the Punjab National Bank, Unitech Business Zone, Sector-50, Gurugram shall belong solely and absolutely to the respondent. Respondent submits that there is certain cash (approx.. Rs.2-3 lakhs), which has emotional value, which is kept in an envelope/plastic bag in locker No.253 belongs to the respondent and the remaining cash, if any, in the two lockers shall belong to the appellant.

(xi) Parties pray that a Local Commissioner be appointed to inventorize the articles in the lockers and handover all the gold jewellery and precious items to the respondent alongwith the envelope containing cash in locker No.253 and the remaining



cash, if any, in the two lockers be handed over to the appellant.

(xii) It is further undertaken that the joint accounts in the name of the parties shall be closed/name of the respondent deleted therefrom and the proceeds in the joint accounts shall be paid to the respondent except for the amount in the pension account of the appellant.

(xiii) Appellant undertakes that he shall exit as a trustee from Sarvprayag Trust, 31-B, Pocket-L, Sheikh Sarai, Phase-2, New Delhi-110017 and shall execute all documentation required the same.

(xiv) Parties further undertake that in case they fail or refuse to execute documents for transfer of the properties, this Court would be empowered to appoint a commissioner to execute the documents on their behalf. The original title deeds of the properties that are being transferred to the respondent and the property that is being transferred to the appellant shall be handed over to the appellant and respondent, respectively within a period of one week from today i.e., at the time of recording of the statement for the first motion.

(xv) Appellant has handed over all the original bills of the jewellery to the respondent in Court today.



(xvi) Appellant submits that he shall nominate his son, Aryan as his nominee for all his ancestral properties.

(xvii) Respondent undertakes that neither she or her children shall claim any right, title or interest in his property.

(xviii) Parties agree that this is in full and final settlement of all their claims towards past, present, future and permanent alimony.

(xix) Appellant undertakes that he shall not approach the respondent or the children and make any communication with regard to the respondent with any friend or family of the respondent qua the respondent. Likewise, respondent undertakes that she shall not approach the appellant or approach any friend or family of the appellant qua the appellant.

(xx) Parties undertake that they shall abide by the terms and conditions of the settlement. The undertaking is accepted.

3. In view of the above settlement and undertaking of the appellant, respondent consents to the setting aside of the Family Court's order dated 06.04.2022, granting divorce between the parties and order dated 29.10.2022, dismissing the application under Order IX Rule 13 of appellant. Respondent, however, reserves her right to



seek revival of the order in case appellant declines to grant divorce by mutual consent.

4. The parties further pray that the statutory period required under Section 13-B(2) be waived.

5. In view of the above, the impugned orders dated 06.04.2022 and 29.10.2022 are set aside with liberty as prayed for to the respondent. The divorce petition is restored to its original number on the records of the Family Court. Respondent undertakes to withdraw the divorce petition once the second motion is granted.

6. Parties shall file a joint petition for divorce under Section 13-B(1) within one week from today. On an application being filed, the Family Court shall take into account that the parties have been living separately since January, 2021 and have not been able to reconcile their differences or resume cohabitation and appropriately consider waiver of the statutory period in accordance with law.

7. Parties shall take steps to transfer the assets as enumerated hereinabove within one month from today.

8. With the consent of parties, Ms. Asmita Narula, Advocate (Mobile No.9717505702) is appointed as the Court Commissioner to supervise the operation of the lockers and to inventorize the articles. After inventory is prepared, the Local Commissioner shall handover



all items found in the lockers *inter alia* the gold jewellery, precious items found in the lockers, except the cash, if any, to the respondent. The cash shall be handover to the appellant. The cash (approx. Rs.2-3 lakhs) contained in envelope/plastic bag in locker No.253 shall be handed over to the respondent, wife. The Local Commissioner shall be paid fee of Rs.1 lakh for the operation of the lockers by the respondent. The lockers shall be operated only after recording of the statement of the parties for the second motion under Section 13-B(2) of the Act. After lockers are operated, both the parties shall surrender the lockers. The Local Commissioner shall file a report.

9. Appeal is disposed of in the above terms.

10. *Dasti* under signature of the Court Master.

SANJEEV SACHDEVA, J

MAY 30, 2023/NA

MANOJ JAIN, J