



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

18 FAMILY COURT APPEAL NO. 7 OF 2023

ANJALI ATUL RAJPUT

VERSUS

ATUL ABHIJIT RAJPUT

...

Advocate for Appellant : Mr. Patil Ujwal Subhash

Advocate for Respondent : Mr. Shaikh Naseem R.

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CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 02.09.2024

PER COURT :

Heard both the sides.

2. This is a Family Court Appeal, preferred by the wife being aggrieved and dissatisfied with the judgment and decree passed by the Family Court dissolving the marriage under Section 13(1)(iii) of the Hindu Marriage Act, 1955.

3. The learned advocates of both the sides have tendered across the bar the terms of the compromise entered between the two sides on the last date.

4. Today they tender across the bar another joint affidavit *inter alia* with two medical certificates regarding mental fitness of the appellant-wife. It has been expressly mentioned in the certificate issued by a Psychiatrist 'she is having a sound mind status and clinically she is physically and mentally fit and competent to give consent in the Court'.

5. We have gone through the terms of the settlement. Though the appeal is sought to be withdrawn, thereby giving finality to the divorce decree, which is under challenge, it contains some stipulation whereby the appellant

seems to have agreed not to claim custody of the children in future. In our considered view, this is an unconscionable and illegal understanding between the parties which we cannot certify for the obvious reason that depending upon the peculiar facts and circumstances and looking into the welfare of the children anything can happen.

6. We, therefore, dispose of the Family Court Appeal in terms of the compromise which is marked 'X' for the purpose of identification, excluding the stipulation containing term 3(a) of the terms of compromise. Even the affidavit filed today as also the terms of compromise 'X' shall form part of the decree.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-