



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 FAMILY COURT APPEAL NO. 32 OF 2020

SHEELA RAVINDRA KHADSE

VERSUS

DR. RAVINDRA SHANKARRAO KHADSE

...

Advocate for Appellant : Mr. Gawali Amol K.

Advocate for Respondent : Mrs. Manjusha Narwade

...

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

DATE : 06 AUGUST 2024

PER COURT :

Heard both the sides.

2. This is an appeal under Section 28 of the Hindu Marriage Act, whereby, the wife is taking exception to the judgment and order refusing to grant divorce on the ground of cruelty and desertion as contemplated under Section 31 (a) (1) (b) of the Hindu Marriage Act, 1955.

3. During pendency of the appeal, the couple has entered into a settlement. The terms of compromise have also been placed on record after due verification before the Registrar (Judicial). They, *inter alia*, have agreed to seek divorce by mutual consent in

this very appeal. The minutes were also recorded on 01 November 2023.

4. The second motion is now being moved by both the sides seeking a final order in terms of the compromise 'X'.

5. There is no dispute about the fact that the couple got married on 14 May 2006 and have been separate since before filing of the divorce petition in the year 2017. A period of more than six months has already lapsed, since the terms of compromise have been settled and filed. Motion deserves to be accepted.

6. However, taking into account the fact that the compromise deed contains, *inter alia*, a stipulation in clause no. (IV) stating that the appellant wife is giving no right of maintenance on behalf of Aishwarya and Deepika, the two minor daughters as their guardian, in our considered view, the stipulation is against the interest of the minor daughters. The condition is unconscionable and cannot be allowed to be a part of settlement. There is nothing in the compromise deed to secure their interest.

7. Learned Advocates of both the sides in presence of the appellant and the respondent unanimously submit this term / clause (IV) shall not be a part of the settlement.

8. In view of above, by treading the present proceedings as a petition under Section 13 B of the Hindu Marriage Act and since the cooling off period is over, we declare the marriage between the two stands dissolved with immediate effect. The compromise (exhibit 'X') shall form part of the decree, excluding clause (IV).

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]