

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL (ST) NO. 3431 OF 2022

WITH

INTERIM APPLICATION (ST) NO. 3432 OF 2022

IN

FAMILY COURT APPEAL (ST) NO. 3431 OF 2022

WITH

FAMILY COURT APPEAL (ST) NO. 3031 OF 2022

WITH

INTERIM APPLICATION NO. 3867 OF 2023

IN

FAMILY COURT APPEAL (ST) NO. 3031 OF 2022

Namrata Pankaj Ojha

...Appellant

Versus

Pankaj Radheshyam Ojha

...Respondent

Mr. Yash Naik, a/w Arbaaz Shaikh, i/b Prabha Badadare,
Advocates for the Respondent.

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**

DATE : APRIL 29, 2024

PC :

1. Mentioned. Not on board. At the request of the learned Counsel for the Respondent taken on board.

2. The above praecipe has been moved for speaking to the minutes of the order dated 18th April, 2024. In the cause title of order, the name of the Respondent shall be stated as “**Pankaj Radheshyam Ojha**” instead of “**Namrata Pankaj Ojha**”.

3. No other correction is sought. The correction shall be carried out in the original order as well as in the copy uploaded on the server.

4. The praecipe for speaking to the minutes is accordingly disposed of.

5. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[**SOMASEKHAR SUNDARESAN, J.**]

[**B. P. COLABAWALLA, J.**]

For the sake of convenience the order dated 18th April, 2024 (as corrected) is reproduced hereunder:-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Digitally
Signed by
ASHWINI
JANARDAN
VALLAKATI
Date: 2024.05.02
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FAMILY COURT APPEAL (ST) NO. 3431 OF 2022

WITH

FAMILY COURT APPEAL (ST) NO. 3031 OF 2022

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INTERIM APPLICATION (ST) NO. 3432 OF 2022

WITH

INTERIM APPLICATION NO. 3867 OF 2023

Sou. Namrata Pankaj Ojha.

.. Appellant

Versus

Shri Pankaj Radheshyam Ojha.

.. Respondent

Ms. Fareha Rizvi, Advocate, i/b. Viresh Purwant, for the Appellant/Applicant/Wife.

Mr. Rahul Singh, Advocate, a/w. Mr. Yash Naik, Mr. Arbaaz Shaikh i/b. Ms. Prabha Badadare, Advocate for Respondent.

Mrs. Namrata Ojha, Appellant-Wife is present in person in Court.

Mr. Pankaj Ojha, Respondent-Husband is present in person in Court.

CORAM: B. P. COLABAWALLA &

SOMASEKHAR SUNDARESAN, JJ.

DATE: APRIL 18, 2024

P. C.

1. By our Order dated 8th April, 2024, we are happy to note that after much deliberation and with the intervention of both the

Advocates, the parties had in principle settled their disputes. Draft Consent Terms were also shown to the Court with minor modifications. In these circumstances, we had directed that the matter be placed on board today for filing Consent Terms.

2. Today when the matter is called out, we are happy to note that both the parties, namely, the Appellant Wife and the Respondent Husband have filed Consent Term dated 18th April 2024. The Consent Terms recite that the Husband (Pankaj) had filed a Petition for divorce on the ground of cruelty and the Wife (Namrata) had filed a Petition seeking restitution of conjugal rights. The Family Court by the impugned Judgment and Order dated 10th December, 2021 allowed the Petition for divorce filed by the Husband and dismissed the Petition filed by the Wife seeking restitution of conjugal rights. It is in these circumstances that the Wife filed the above two appeals challenging the common impugned Judgment and Order dated 10th December, 2021. It is in these two appeals, the present consent terms are filed.

3. The Consent Terms in paragraph-(I)(i) record that certain jewellery is to be handed over by the Husband to the Wife. That jewellery has been handed over in front of the Court today and which

the Wife has duly acknowledged. The Consent Terms also provide that the Respondent Husband has to pay to the Appellant Wife a sum of Rs. 31,50,000/- (Rs. Thirty One Lakhs Fifty Thousand only) under different heads. Towards this payment, the Advocates for the Husband have handed over a demand draft in the name of the Wife drawn on ICICI Bank Ltd in the sum of Rs. 30 Lakhs. The Wife duly acknowledges the receipt of the said demand draft. The balance amount of Rs. 1,50,000/- has in fact been transferred by NEFT to the bank account of the Wife which is duly acknowledged by her.

4. The Consent Terms also provide for the education and maintenance of the son who is in the custody of the Wife. The Consent Terms provide that towards the annual maintenance of the son (Apoorva), the Husband shall pay a sum of Rs. 3,60,000/- per year on or before 30th April of every year. However, for the academic year 2024-25, the amount of Rs. 3,60,000/- shall be paid on or before 30th May, 2024. In other words, for this academic year, the payment shall be made on or before 30th May, 2024 and on all subsequent years it will be paid on or before 30th April of each year. The Consent Terms also provide for disposal of cases between the parties. In a nut shell, this is what the Consent Terms really provide for.

5. The Consent Terms have been signed by the Appellant Wife and the Respondent Husband. They are both present in the court today. They have both stated that they have signed the Consent Terms after reading and understanding the same as well as the implications thereof. The Consent Terms are also signed by the Advocates for the Appellant and the advocate for the Respondent. In these circumstances, the Consent Terms dated 18th April 2024 are taken on record and marked “X” for identification. The undertakings given in the Consent Terms, if any, are accepted as undertakings given to the Court. There shall be an Order and Decree in terms of Consent Terms.

6. Since the parties have been residing separately since the year 2013 and since they have requested the Court to pass a decree of divorce by mutual consent and withdraw all allegations against each other as well as their respective family members, we hereby grant a decree of divorce to the parties by mutual consent under the provisions of Section 13(B) of the Hindu Marriage Act, 1955.

7. The impugned Judgment and Order dated 10th December 2021 passed by the Family Court is hereby set aside and is substituted with the Consent Terms dated 18th April, 2024 read with present Order.

8. Both the above appeals are disposed of in the aforesaid terms. However, there shall be no order as to cost.

9. In view of the disposal of the above appeals, any applications pending therein do not survive and the same are disposed of accordingly.

10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN,J.]

[B. P. COLABAWALLA, J.]