
**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

INTERIM APPLICATION NO.3503 OF 2021

IN

FAMILY COURT APPEAL NO.63 OF 2021

WITH

INTERIM APPLICATION NO.4197 OF 2021

IN

FAMILY COURT APPEAL (L) NO.18764 OF 2021

Anirudha Herwadkar

.. Appellant/Applicant

Versus

Namita Herwadkar

.. Respondent

**Mr.Malcolm Siganporia a/w V.S. Vengurlekar i/b
M/s.Nair Vengurlekar & Co.,** Advocates for the
Appellant/Applicant/Husband.

Mr.Vivek Pandey a/w Ridhima Mangaonkar, Advocates
for Respondent/Wife.

Mr.Anirudha Herwadkar, Appellant-Husband is present.

Mrs.Namita Herwadkar, Respondent-Wife is present.

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

**DATE :MAY 08, 2024
(In Chambers at 4.30 p.m.)**

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P. C.

1. Both the above Family Court Appeals have been filed seeking to challenge the common order passed by the Family Court, Bandra dated 16th June, 2021 read with the order dated 20th November, 2021. By the impugned orders, the Petition for divorce filed by the Husband was dismissed and custody/excess was granted to the Respondent-Wife in terms of the impugned orders.

2. We are happy to note that with the intervention of counsel, the Appellant-Husband and the Respondent-Wife have settled their matrimonial disputes amicably as recorded in the Consent Terms dated 8th May, 2024.

3. The Consent Terms *inter alia* provide that both the parties seek a divorce by mutual consent and that the order of this Court granting a divorce read with the Consent Terms be substituted in place of the impugned orders. The Consent Terms also provide that the Appellant-Husband has agreed and undertaken to pay to the Respondent-Wife a sum of Rs.90 Lakhs as more particularly set out in paragraphs 31 and 32 of the Consent Terms. The Consent Terms also

provide that in the event there is a delay in making payment then certain compensation would have to be paid to the Respondent-Wife as more particularly set out in paragraphs 34 to 37 thereof. The Consent Terms also stipulate that notwithstanding the above, time for payment shall be of the essence.

4. The Consent Terms have been signed by the Appellant-Husband as well as the Respondent-Wife. They are both present before 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.

5. The Consent Terms are also signed by the advocates for the Appellant and the advocates for the Respondent.

6. In these circumstances, the Consent Terms dated 8th May, 2024 are taken on record and marked 'X' for identification. There shall be an order and decree in terms of the Consent Terms.

7. Both parties have impressed upon us that since they are living separately for around approximately 13 years, and there is no

scope of any reconciliation, a decree of divorce by mutual consent be passed under Section 28 of the Special Marriage Act, 1954.

8. Considering the statements of the parties and taking into consideration that they have not resided together since the last 13 years, and they have now amicably resolved their marital disputes as set out in the Consent Terms, we dissolve the marriage between the Appellant-Husband and the Respondent-Wife solemnized on 20th November, 2007 by mutual consent under Section 28 of the Special Marriage Act, 1954.

9. It is made clear that now the impugned orders passed by the Family Court, Bandra dated 16th June, 2021 read with the order dated 20th November, 2021, shall be substituted by the Consent Terms read along with this order.

10. The above Appeals are disposed of in the aforesaid terms. However, there shall be no order as to costs.

11. In view of the disposal of the above Appeals, the Respondent-Wife has stated that the execution proceedings initiated by her before the Family Court shall be withdrawn on the next date of

hearing of the said proceeding and which is stated to be on 1st June, 2024. The said statement is accepted as an undertaking given to the Court.

12. In view of the disposal of the above Appeals, any Applications pending therein do not survive and are disposed of accordingly.

13. 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.]