

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL (ST) NO. 5946 OF 2024

WITH

INTERIM APPLICATION NO. 7476 OF 2024

IN

FAMILY COURT APPEAL (ST) NO. 5946 OF 2024

Sakshi Sandeep Kakye

...Appellant/
Applicant

Versus

Sandeep Tanu Kakye

...Respondent

Mr. Vishal Vinayak Rankhambe, for the Appellant/Applicant-Wife.

Mr. Ritesh Jadhav, for Respondent-Husband.

Mrs. Sakshi Kakye, Appellant is present in Court.

Mr. Sandeep Kakye, Respondent is present in Court.

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

DATE : OCTOBER 11, 2024

PC :

1. The above Family Court Appeal was filed by the Appellant-Wife challenging the order passed by the Family Court, Mumbai at Bandra, dated 23rd January, 2024 (impugned order) under which *inter alia* a divorce was granted in favour of the Respondent-Husband. However, the custody of the child sought by the Respondent-Husband

was rejected by the Family Court.

2. When the above matter had come up on 16th August, 2024, we had noted that an in-principle agreement was arrived at between the parties to settle their *inter se* disputes. Thereafter, on 23rd August, 2024 the parties tendered Consent Terms which were taken on record and marked as 'X' for identification. These Consent Terms *inter alia* provided that the Respondent-Husband will pay permanent alimony of Rs.18,00,000/- to the Appellant-Wife, which was to be paid in three installments, the last installment being payable by 30th September, 2024. Further Clause-5 of the Consent Terms provided that the Respondent-Husband agreed to transfer Flat No.108 (referred to the order dated 23rd August, 2024) in the name of the Appellant-Wife and the two daughters, who will be named as nominees of the said flat after both of them attain the age of majority. We also recorded a statement on behalf of the Respondent-Husband that the Appellant-Wife is free to do what she wants with the said flat and she is entitled to sell the said flat or will be entitled to give it out on a leave and license basis. In other words the Appellant-Wife has the discretion to do as she chooses with reference to the said flat. That statement on behalf of the Respondent-Husband was also accepted as an undertaking given to this Court on 23rd

August, 2024. Though we took the Consent Terms on record and accepted the undertaking given therein, we did not dispose of the above Family Court Appeal because a divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955 (for short the “***said Act***”) was to be passed only once the terms of the Consent Terms were duly complied with.

3. Today when the matter is called out, the parties have informed us that all the terms and conditions of the Consent Terms have been duly complied. In other words, not only the amount of Rs.18,00,000/- has been paid by the Respondent-Husband to the Appellant-Wife but Flat No.108 is also transferred in the name of the Appellant-Wife. The parties have, therefore, requested us to pass a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. The parties are present before us today. They have stated that they have been residing separately since 2021. They have both stated that despite trying to reconcile their differences, they have been unable to do so. They have, therefore, requested us to pass a decree of divorce by mutual consent under Section 13B of the said Act.

4. After hearing the parties on this aspect, we are satisfied that there is no scope of a reconciliation. The parties have been living

separately since the past three years. In these circumstances, it would be in the interest of both the parties, if a divorce by mutual consent is granted under Section 13B of the said Act so that they can move on with their lives. We, accordingly, dissolve the marriage between the Appellant-Wife and the Respondent-Husband solemnized on 26th April, 2007 by a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. The impugned order shall now be substituted with the Consent Terms dated 23rd August, 2024 read with the order passed by this Court on 23rd August, 2024 and the order passed today.

5. The above Family Court Appeal is disposed of in the aforesaid terms. However, there shall be no order as to costs.

6. In view of the disposal of the above Family Court Appeal, nothing survives in the above Interim Application and the same be disposed of accordingly.

7. 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.]