

IN THE CHIEF PARSİ MATRIMONY COURT AT BOMBAY

PARSI SUIT NO. 4 OF 2024

Aazmin Fareedoon Patel

...Plaintiff No.1

V/s.

Fareedoon Dara Patel

...Plaintiff No.2

Mr. Parvez M. Rustomkhan, Advocate for the Plaintiff.

CORAM : ABHAY AHUJA, J.
DATE : 9th MAY, 2024

PC. :

1. This Parsi Suit seeking divorce by mutual consent under Section 32-B of the Parsi Marriage and Divorce Act, 1936 (the “PMD Act”), has been filed by the Plaintiffs who are wife and husband residing in Ratlam, Madhya Pradesh and Mumbai respectively.

2. After hearing Mr. Rustamkhan, learned Counsel for the Plaintiffs, it emerges that the marriage was solemnized in Ratlam, Madhya Pradesh and the Plaintiff No. 1 resides in Madhya Pradesh, whereas the Plaintiff No. 2 resides in Mumbai. A query was put to Mr. Rustamkhan as to whether this Court would have jurisdiction and Mr. Rustamkhan has pointed out that since one of the Plaintiffs viz. the Plaintiff No. 2 resides in Mumbai, within the jurisdiction of this Court, pursuant to Section 29(3) of the PMD Act, with leave granted by this Court the Suit can be entertained by this Court.

3. Section 29 of the PMD Act is usefully quoted as under:-

“29. Court in which suits to be brought.—(1) All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit or where the marriage under this Act was solemnized. (2) When the defendant shall at such time have left the territories to which this Act extends such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together. (3) In any case, whether the defendant resides in the territories to which this Act extends or not, such suit may be brought in the Court at the place where the plaintiff resides or at the place where the plaintiff and the defendant last resided together, if such Court, after recording its reasons in writing, grants leave so to do.”

4. From the above, it emerges that the Suit under the PMD Act can be brought before a Court within the limits of whose jurisdiction the Defendant resides at the time of the institution of Suit or where the marriage under the Act was solemnized and if the Defendant has at the time of filing the Suit left the territory to which the PMD Act extends, the Suit is to be brought before the Court at the place where the Plaintiff and the Defendant last resided together. Therefore, if one goes by Section 29(1) or 29(2) of the PMD Act, the District Court in Ratlam would have jurisdiction. It is however, observed from sub-Section (3) to Section 29 that the suit may be brought in the Court at the place where the Plaintiff resides, only after this Court grants leave to do so.

Therefore, even considering that one of the Plaintiffs viz. Plaintiff No. 2 resides in Mumbai, for the suit be brought in this Court, first leave of this Court has to be obtained. It is observed that the suit has already been given registered number and it has been filed before any such leave has been obtained. Therefore, the best course of action for Mr. Rustamkhan would be first to withdraw the Suit and then either file the Suit in Ratlam District Court or take leave of this Court and then file a fresh Suit here.

5. Mr. Rustamkhan, on instructions from his clients, seeks leave of this Court to withdraw the Suit.

6. The Suit is accordingly allowed to be withdrawn and disposed of as such.

(ABHAY AHUJA, J.)

**NIKITA
YOGESH
GADGIL**

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