

**IN THE PARSİ CHİEF MATRİMONİAL COURT AT BOMBAY
PARSİ SUİT NO. 5 OF 2024**

Hemin Bharucha	...Plaintiff No. 1
V/s.	
Meher Bharucha Nee Meher Bilimoria	...Plaintiff No.2

Mrs. Touban F. Irani for Plaintiffs.

CORAM	:	ABHAY AHUJA, J.
DATE	:	13th JUNE, 2024

P.C. :

1. This Parsi Suit has been filed for divorce under Section 32-B of the Parsi Marriage and Divorce Act, 1936. (the “PMD Act”) by the Plaintiffs seeking divorce by mutual consent.

2. Mrs. Irani, learned Counsel appears for Plaintiffs would submit that the marriage between the Plaintiffs was solemnized on 20th January, 2009 at Mumbai as per the Parsi rites and rituals and draws the attention of this Court to the marriage certificate at Exhibit A to the Plaint.

3. It is submitted that although the couple resided together for more than a decade, however, due to irreconcilable differences between the Plaintiffs on account of their temperament it became difficult for them to live together. That the Plaintiffs made innumerable efforts

themselves to resolve their problems. Their family and friends also made efforts. However, the same proved futile and therefore, since 1st August, 2022, the Plaintiffs due to that incompatibility stopped residing together as husband and wife and started living separately.

4. Mrs. Irani, learned Counsel for the Plaintiffs would submit that in fact the Plaintiffs also attempted to restore their relationship seeking of leading psychologist, Dr. Narinder Kinger. The Plaintiffs No. 1 and 2, who are present in Court confirm that they have been taking sessions from Dr. Kinger for last two years, however, since the two of them could not resolve their incompatibility, after considering the same, pursuant to professional counselling sessions by Dr. Kinger, the Plaintiffs have decided to separate, as due to their irreconcilable and temperamental differences, their marriage has broken down and is irretrievable and no longer can continue. That therefore, they have mutually agreed and decided to have their marriage dissolved under Section 32-B of the PMD Act and have filed this suit for divorce by mutual consent.

5. Upon a query from the Court to the Plaintiffs, whether they have any children, this Court is informed that the Plaintiffs have no children from the wedlock. This Court also enquired from the Plaintiffs, whether

they can stay together and this Court was informed that, that would not be possible as all such efforts have failed and therefore, they have mutually agreed to obtain divorce. The learned Counsel for the Plaintiffs refers to the consent terms dated 16th April, 2024 at Exhibit B to the plaint.

6. The Plaintiffs have also tendered across the bar their respective affidavits by way of evidence viz. Affidavits dated 2nd May, 2024, which are taken on record and respectively marked “X” and “Y” for the purposes of identification. The Plaintiffs have deposed to the correctness of their contents. Accordingly, the testimony of the Plaintiffs as contained in their respective affidavits of evidence stand accepted as true and correct facts as placed before this Court in support of the averments made in the Plaint.

7. Section 32-B of the PMD Act requires that the Court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that the marriage has been solemnized under the PMD Act and the averments in the plaint are true and that the consent of either party to the suit was not obtained by force or fraud and that after being satisfied the Suit for divorce has been filed by both the parties to

the marriage together, on the ground that they have been living separately for a period of one year or more, and that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved, pass a decree declaring the marriage to be dissolved with effect from the date of the decree.

8. Insofar as the requirement for this Court to exercise jurisdiction under Section 32-B of the PMD Act is concerned, perusal of the record, as also an interaction with the Plaintiffs suggests that the Plaintiffs are living separately for a period of more than one year as they have not been able to live together harmoniously due to irreconcilable differences which have arisen between them as stated by them in the plaint as also in their affidavits of evidence. That, the plaintiffs have mutually agreed that the marriage be dissolved. The consent of the Plaintiffs for a decree of divorce by mutual consent is also made freely on their own volition. It is observed that the marriage was solemnized on 20th January, 2009. That the Plaintiffs have been living separately from 1st August, 2022. That the suit has been filed on 17th April, 2024. From my interaction with the Plaintiffs and considering the submissions made, it emerges that the Plaintiffs have been living separately for a period of one year and that they have not been able to live together

and that they have mutually agreed that the marriage should be dissolved. That the suit has been filed more than 13 years after the marriage. This Court can therefore exercise jurisdiction under Section 32-B of the PMD Act.

9. The consent terms dated 16th April, 2024, as entered between the Plaintiffs shall form a part of the decree to be drawn up by the Court. Mrs. Irani, learned Counsel for the Plaintiffs informs the Court that Clause 2(i) and Clause 3 of the consent terms have been already complied with. That as far as Clause 2(ii) is concerned, the Plaintiff No. 1 shall pay the balance remaining amount of Rs.4.40 Crs. to the Plaintiff No. 2 at the earliest but not later than 1st October, 2025. Accordingly, the undertakings in the consent terms are accepted as undertakings to this Court.

10. After hearing the learned Counsel and interacting with the Plaintiffs, and after perusing the plaint, copy of the marriage registration certificate of the Plaintiffs, the consent terms as well as the affidavits of evidence, I am satisfied that the marriage has been solemnized under the PMD Act, that the averments in the plaint are true and the consent of either party to the suit has not been obtained

by the force or fraud and that the Plaintiffs are not in a position to live happily in their marriage. In these circumstances, the present suit for divorce by mutual consent requires to be decreed.

11. The suit is decreed and it is declared that the marriage between the Plaintiffs is dissolved in accordance with the consent terms. Accordingly, decree in terms of prayer clause (a), which reads as follows:

“This Hon’ble Court be pleased to dissolve their marriage solemnized on 20th January, 2009 under section 32B of The Parsi Marriage & Divorce Act, 1936.”

12. The learned Registrar to expeditiously draw up a decree of divorce by mutual consent in terms of the consent terms and the same be made available to the Plaintiffs as soon as possible.

(ABHAY AHUJA, J.)

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