

IN THE PARSİ CHİEF MATRİMONİAL COURT AT BOMBAY

PARSİ SUTT NO. 6 OF 2024

Khushnaaz Porus Karbhari ...Plaintiff No.1

V/s.

Mehernosh Rusi Bharucha ...Plaintiff No.2

Ms. Persis Farokh Sidhva with Mr. C. D. Seshadri for Plaintiffs.

CORAM : ABHAY AHUJA, J.

DATE : 4th JULY, 2024

PC. :

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. Ms. Sidhva, learned Counsel for Plaintiffs would submit that the marriage between the Plaintiffs was solemnized on 10th February, 2018 at Malcolm Baug, S. V. Road, Jogeshwari West, Mumbai according to Parsi Zoroastrian rites and ceremonies and draws the attention of this Court to the marriage certificate at Exhibit A to the Plaint.

3. It is submitted that after the marriage the Plaintiffs cohabited and resided together at Mahim, Mumbai. However, due to differences

between the Plaintiffs on account of their nature and temperament they realized that they were incompatible. Plaintiffs made several efforts themselves to resolve their problems. Their friends and relatives also tried their best to reconcile the differences between them but in vain and therefore, since 15th February, 2023, the Plaintiffs have stopped residing together as husband and wife and have started living separately. It is submitted that the Plaintiffs have no children.

4. Ms. Sidhva, learned Counsel would submit 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. This Court has also enquired from the Plaintiffs, who are present in Court, whether they can stay together and the Court has been informed that, due to irreconcilable differences, they have not be able to live together since 15th February, 2023 and have therefore, mutually agreed to obtain divorce. The learned Counsel for the Plaintiffs refers to the consent terms dated 30th April, 2024 at Exhibit C to the plaint.

6. The Plaintiffs have also tendered across the bar their respective affidavits by way of evidence viz. Affidavits dated 30th April, 2024, which are taken on record. 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 that 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 as noted above, suggests that the Plaintiffs are living separately for a period of more than one year as they have not been able to live together 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 10th February, 2018. That the Plaintiffs have been living separately since 15th February, 2023. That the suit has been filed on 30th 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 6 years after the solemnisation of the marriage. This Court can therefore exercise jurisdiction under Section 32-B of the PMD Act.

9. The consent terms dated 30th April, 2024, as entered between the Plaintiffs shall form a part of the decree to be drawn up by the Court except the phrase “even in the event of a change in circumstances” as mentioned in paragraph 4 of the Consent Terms. Subject to the above, 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 and therefore, of the view that the suit for divorce by mutual consent 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 the marriage between the Plaintiffs solemnized on 10th February, 2018 at Malcolm Baug, S. V. Road, Jogeshwari west, Mumbai according to Parsi Zoroastrian rights and ceremonies by a Decree of Divorce by Mutual Consent under Section 32 (B) of the Parsi Marriage and Divorce Act, 1936.”

12. The learned Registrar to expeditiously draw up the decree for divorce by mutual consent in terms of the consent terms except as contained in paragraph 9 above and the same be made available to the Plaintiffs as soon as possible.

Digitally
signed by
NIKITA
YOGESH
GADGIL
Date:
2024.07.06
13:27:23
+0530

(ABHAY AHUJA, J.)