

**IN THE PARSİ CHİEF MATRİMONİAL COURT AT BOMBAY
PARSİ SÜİT NO. 13 OF 2024**

Mr.Rohinton Sam Sethna)...Plaintiff No.1

V/s.

Mrs.Laila Rohinton Sethna)...Plaintiff No.2

Mr.Dinesh Chandrarao Patankar, Advocate for the Plaintiffs.

Mr.Rohinton Sam Sethna, Plaintiff No.1 present in Court.

Mrs.Laila Rohinto Sethna, Plaintiff No.2, present in Court.

CORAM : ABHAY AHUJA, J.

DATE : 14th November 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. Mr. Patankar, learned Counsel for Plaintiffs would submit that the marriage between the Plaintiffs was solemnized on 21st March, 1988 at Jeejeebhoy Dadabhoy Agiary premises, Pilot Bunder Road, Colaba, Mumbai according to Parsi Zoroastrian 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 after the marriage the Plaintiffs cohabited and resided together at Mumbai. That, there are two children born out of the wedlock viz. son Yohan born on 10th August 1989 and daughter Nikita born on 15th November 1993, presently aged 34 and 30 years respectively and draws the attention of this Court to the respective birth certificates of the Plaintiffs' children at Exhibit B Collectively. That, due to the irreconcilable 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 21st February, 2010, the Plaintiffs have stopped residing together as husband and wife and have started living separately.

4. Mr. Patankar, learned Counsel would submit that therefore, the Plaintiffs 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 been living separately since 21st February, 2010 and not been able to live together since then and have therefore, mutually agreed to apply for divorce. The learned Counsel for the Plaintiffs refers to the consent terms dated 30th July, 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 12th November, 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 stands 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. From a perusal of the record, as also my interaction with the Plaintiffs as noted above, the following emerges :-

(i) the marriage was solemnized on 21st March 1988. That the Plaintiffs have been living separately since 21st February 2010, which is for a period of more than 14 years i.e. they have been living separately for a period of more than one year as required under Section 32-B of the PMD Act;

(ii) 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 and also submitted during my interaction with them, the Plaintiffs have mutually agreed that the marriage be dissolved and have entered into consent terms dated 30th July, 2024;

(iii) that the consent of the Plaintiffs for a decree of divorce by mutual consent in my view has been made freely on their own volition i.e. without any coercion or undue influence or force or fraud;

(iv) that the suit has been filed on 30th July 2024, whereas the marriage was solemnized on 21st March, 1988. That, therefore, the suit has been filed, more than 36 years after the solemnisation of the marriage i.e. more than one year from the date of marriage as required under Section 32-B of the PMD Act.

8.A. The children of the Plaintiffs are also, as noted above, adults and are living separately.

9. In view of the above and having heard the learned Counsel and having interacted 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, that the parameters under Section 32-B of the PMD Act having been met, I am of the view that the suit for divorce by mutual consent be decreed. The consent terms dated 30th July, 2024, as entered between the Plaintiffs shall form a part of the decree to be drawn up by the Court. The undertakings in the consent terms are accepted as undertakings to this Court.

10. The suit is, accordingly, decreed in terms of prayer clause (a) and it is declared that the marriage between the Plaintiffs is dissolved.

Prayer clause (a) reads as under :

“This Hon’ble Court be pleased to dissolve their marriage solemnized on 21st March 1988 under Section 32 (B) of the Parsi Marriage and Divorce Act, 1936.”

11. The learned Parsi Registrar to expeditiously draw up the decree for divorce by mutual consent.

(ABHAY AHUJA, J.)

Digitally
signed by
NIKITA
YOGESH
GADGIL
Date:
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