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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 29th February, 2024+ **MAT.APP.(F.C.) 26/2021, CM APPL. 6637/2021 & CM APPL. 6638/2021****SMT ARTI ARORA**

..... Appellant

Through: Mr. Nikilesh Ramchandran, Mr. Shubham Seth, Mr. Anuj Panwar, Advocates and Smt. Arti Arora (appellant)

versus

SH DIWAKAR SINGH

..... Respondent

Through: Mr. Mukesh Thakur, Mr. Dharendra Singh, Mr. Nand Kishore, Advocates and Shri Diwakar Singh (respondent)

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J. (Oral)****CM APPL. 10515/2024**

1. On 21.02.2024, when the above-captioned application was listed before this Court, we had broadly recorded the backdrop in which the application had been filed and the fact that the parties had arrived at a settlement under the aegis of Delhi High Court Mediation and Conciliation Centre [in short "Centre"].

1.1 For convenience, the relevant part of the said order is set forth hereafter:-

"1. The substantive prayer made in the application reads as follows:





“(a) Allow the present application and pass an order modifying the decree from cruelty and desertion to decree of divorce by mutual consent in terms of the settlement arrived in HMA No. 195 of 2018.”

2. The record shows that the Family Court, based on a petition filed by the respondent/husband, passed a judgment dated 27.02.2020 whereby the marriage between the couple has been dissolved under Section 13(1)(ia) and (ib) of the Hindu Marriage Act, 1955 [in short, “HMA”].

3. In the above-captioned application, it is averred that the parties have arrived at a settlement under the aegis of [the] Delhi High Court Mediation and Conciliation Centre [in short, “Centre”]. The application is appended by a Settlement Agreement (SA) dated 02.02.2024 and is marked as Annexure A-1 to the application.

4. Learned counsel for the parties concede that in the SA, there is no provision with regard to the impugned judgment and decree.

5. It is the submission of learned counsel for the parties that the parties are willing to go their own way and, thus, in effect, seek dissolution of marriage based on mutual consent.

5.1 In other words, they want the decree of divorce to be sustained albeit under the provisions of Section 13B of the HMA. This aspect of the matter will be examined on the next date of hearing.

6. Parties are requested to remain physically present in court on the next date of hearing.”

2. As directed on 21.02.2024, parties are physically present in Court.
3. On being queried, we are informed by the respondent that he has already remarried.
4. Given this position and having regard to the fact that parties have arrived at a settlement, we have sought to ascertain from the appellant as to whether she would be agreeable to the decree of divorce being sustained.
- 4.1 The appellant has submitted that while she would have no objection to the decree of divorce being sustained, her grievance is with the observations made in the impugned judgment concerning cruelty and desertion.





4.2 In response, the respondent has stated unequivocally that he would have no objection if the Court were to expunge the observations made by the Family Court in the impugned judgment concerning cruelty and desertion.

5. To be noted, the main prayer made in the application is to modify the decree from cruelty and desertion to a decree of divorce by mutual consent.

6. Having regard to peculiar facts and circumstances obtaining in the case, the decree of divorce is sustained. However, the observations made in the impugned judgment concerning cruelty and desertion stand expunged. Recourse, in this regard, is taken to the residuary prayer clause (b) incorporated in the application.

7. Pertinently, in consonance with the settlement arrived at between the parties, the respondent/husband has handed over a demand draft amounting to Rs.12,50,000/- to the appellant/wife. The details of the demand draft are as follows:-

<i>Name of the Bank</i>	<i>Draft No.</i>	<i>Amount</i>
<i>Punjab National Bank</i>	<i>863296</i>	<i>Rs.12,50,000/-</i>

8. The application is disposed of in the aforesaid terms.

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9. Given the order passed in CM No. 10515/2024, the appeal is closed.

10. Pending applications shall also stand closed.

11. Parties will act based on the digitally signed copy of the order.

**RAJIV SHAKDHER, J.
(JUDGE)**

**AMIT BANSAL, J.
(JUDGE)**

FEBRUARY 29, 2024/A

Signature Not Verified

Digitally Signed By: AARZOO

Signing Date: 02/03/2024

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