



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

SECOND APPEAL NO. 29 OF 2023

Shripad S/o Gopalrao Pathak,
Age : 41 years, Occu. Unemployed,
R/o : Naik Nagar, Near Anand Nagar,
City Bus Stop, Nanded,
Tq. & Dist. Nanded.

.....Appellant

VERSUS

Sou. Varsha W/o Shripad Pathak,
Age : 35 years, Occu. Service,
R/o : C/o Dinanat B. Guruba,
Opposite Hotel Premier,
Jamner Road, Bhusawal,
Tq. Bhusawal, Dist. Jalgaon.

.....Respondent

...
Advocate for Appellant : Mr. S. A. Ambad
AGP for Respondent-State: Mr. A. M. Gholap
...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : January 16, 2025

ORDER:-

1. The present appeal takes exception to the judgment and decree passed by the Civil Judge Senior Division, Bhusawal dated 04.01.2017 in Hindu Marriage Petition No.264/2015 as well as the judgment and decree passed by District Judge-3, Bhusawal dated 02.08.2022 in Regular Civil Appeal No.10 of 2017, thereby upholding judgment and decree passed by the Trial Court.

2. The claim of the appellant/plaintiff is for grant of decree of divorce under Section 13(1)(ib)(iii) of the Hindu Marriage Act, 1955.

3. By order dated 27th September, 2024, a joint request was made by the parties to refer matter for mediation. Eventually, Advocate Shri S. K. Kadam was requested to mediate.

4. The learned Mediator forwarded his report dated 10.01.2025 alongwith terms of settlement, which are taken on record and marked as Exhibit-X for identification.

5. Parties to the proceeding alongwith their Advocates appeared before this Court and accepted the terms of the settlement, which are duly verified by them before notary Shri. Shivkumar Baswantrao Patil. Parties have accepted the respective signatures and learned Advocates appearing for respective parties identified them.

6. Parties by way of amicable settlement agreed to dissolve their marriage by way of divorce by mutual consent and requests this Court to treat the terms of settlement mutually signed by them as modified petition for divorce by mutual consent. The

respondent accepted that she has received the Demand Draft dated 21.12.2024 drawn on Bank of Baroda bearing No.175191 for Rs.8,15,100/- drawn in her name and Demand Draft Nos.175190 and 175189 drawn in the names of minors for Rs.5,00,000/- each. They have settled the terms as regards to the exchange of gold ornaments and utensils with each other and withdrawn the allegations stipulated in the pleadings in criminal and civil proceeding.

7. The respondent-wife agreed to withdraw Criminal M.A. No.260/2015 filed under Section 125 of Criminal Procedure Code before Judicial Magistrate First Class at Bhusawal. The visiting right to meet the children are also secured under the terms of settlement.

8. In the light of settlement terms appended to mediation report, there is no difficulty in acceding to the prayer for grant of decree by mutual consent and pass consequential order to modify the decree under appeal in terms of the settlement dated 10.01.2025. Hence, following order.

ORDER

i. Second Appeal is partly allowed.

ii. The judgment and decree under appeal is hereby quashed and set aside.

iii. The joint request of the appellant and respondent for grant of decree by mutual consent in terms of Section 13(B) of the Hindu Marriage Act, 1955 is accepted. Consequently, it is declared that marriage between the appellant and respondent is dissolved by decree of divorce by way of mutual consent in terms of conditions of settlement stipulated in the agreement appended to mediation report by dispensing conditions stipulated under Clause (2) of Section 13(B) of the Act.

iv. The decree be drawn in terms of agreement appended to mediation report dated 10.01.2025.

(S. G. CHAPALGAONKAR, J.)