

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8742 OF 2024

Mrs. Aarya Munish Gawde	...Petitioner
<i>Versus</i>	
Mr. Munish Vinayak Gawde	...Respondent

WITH
CRIMINAL REVISION APPLICATION NO.212 OF 2021

Mrs. Aarya Munish Gawde	...Applicant
<i>Versus</i>	
Mr. Munish Vinayak Gawde & The State of Maharashtra	...Respondent

Mr. R.S. Apte, Senior Advocate i/by S.S. Ambedkar, for Applicant and Petitioner.
Ms. Siddh Vidya a/w Ms. Shalaka Karkar, Ms. Divya Maniar i/by Siddh Vidya and Associates for the Respondent.
Mr. S.S. Ghag, APP for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 15th April 2025

P.C.:

1. Heard Mr. Apte, learned Senior Counsel for the Petitioner and Ms. Siddh Vidya, learned Counsel for the Respondent.
2. Both the learned Counsel state that the parties have settled the dispute and tenders the Consent Terms. The Consent Terms are signed by the Applicant / Petitioner and the Respondent.

3. The Applicant/Petitioner- Aarya Gawde and the Respondent – Munish Gawde are personally present in the Court. Both of them state that the dispute between them is settled in terms of the Consent Terms and that they have signed the Consent Terms. Learned Advocates also signed the Consent Terms and identifies signatures of their respective clients.

4. Accordingly, the Consent Terms are taken on record and marked “X” for identification. The Consent Terms read as under :

“CONSENT TERMS

Both the parties agree to settle this matrimonial dispute amicably:

1. The parties are Hindu by religion and their marriage was solemnized on 16.12.2006 at Vartak Hall, Dadar, Mumbai as per Hindu Vedic Rites and Rituals. The said marriage is registered. There is one issue born out of the said wedlock on 25.12.2008, a son named "Tanish", who is 16 years old and currently in care and custody of Applicant/Petitioner mother. Son Tanish is a special child and a case of cerebral palsy (brain hypoxic injury) with convulsions (fits) issue. He is unable to sit, stand, walk, speak or do any daily routine and activities independently who requires 24/7 special attention and care.

2. The Applicant/Petitioner (wife) had filed a Petition for Maintenance and Domestic Violence u/s. 125 of Code of Criminal Procedure, 1973, and u/s. 12 of Protection of Women from Domestic Violence Act respectively, against the Respondent (husband) bearing no. E-322 of 2013 before the Ld. Family Court at Bandra, Mumbai. The Ld. Family Court at Bandra, Mumbai vide its Judgment and Order dated 30.12.2019 was pleased to partly allow the petition, thereby granting Rs. 20,000/- per month towards the maintenance of son Tanish and completely rejected the claim of maintenance of the Applicant/Petitioner (wife).

3. The Applicant/Petitioner (wife) has also filed the present Criminal Revision Application No. 212 of 2021 to quash and set aside that part of Judgment and Order dated 30.12.2019 passed by the Ld. Family Court at Bandra, Mumbai in Petition No. E – 322 of 2013 which partly rejects the claim of the Applicant/Petitioner (wife) for maintenance under Section 125 of Cr.P.C.

4. The Respondent (husband) has filed a Petition bearing No. A-530 of 2017 before the Ld. Family Court at Bandra, Mumbai for Divorce u/s. 13(1)(ia) and 13(1)(ib) and for Custody u/s. 26 of the Hindu Marriage Act, 1955 and other reliefs. The Applicant/Petitioner (wife) had filed Interim Application No. 24 of 2022 for Maintenance below Exhibit-25 before the Ld. Family Court at Bandra in Petition No. A 530 of 2017. The said Interim Application was decided by the Ld. Family Court at Bandra vide Order dated 02.11.2023, thereby rejecting maintenance to the Applicant/Petitioner (wife) and granted amount of Rs. 5,000/- to son "Tanish" towards the maintenance.

5. The Applicant/Petitioner (wife) has also filed the present Civil Writ Petition No. 8742 of 2024 to quash and set aside that part of Order dated 02.11.2023 passed in Interim Application No. 24 of 2022 below Exhibit-25, by the Ld. Family Court at Bandra, Mumbai which partly rejects the claim of the Petitioner/Applicant(wife) for maintenance under Section 24 of Hindu Marriage Act, 1955 and granted incremented amount of Rs. 5,000/- per month to son Tanish towards maintenance.

6. That during the pendency of the Criminal Revision Application No. 212 of 2021 and Civil Writ Petition No. 8742 of 2024, both the parties have mutually decided to settle their dispute amicably on following terms and conditions:

a. The Respondent (husband) agrees and undertakes to pay Rs. 92.50 Lakhs to son Tanish and Petitioner/Applicant(wife) towards alimony as full and final settlement.

b. Both the parties agree, confirm and declare that the permanent custody of son Tanish shall remain with the Applicant/Petitioner (wife) i.e. Aarya Gawde.

c. The Respondent (husband) agrees and undertakes that he shall make payment of full and final settlement amount of Rs. 92.50 Lakhs (Rs. 92,50,000/-) to the Applicant/Petitioner (wife) in 2 (two) installments on or before 21.04.2025.

d. The Respondent (husband) agrees and undertakes that he shall pay the entire amount of Rs. 92.50 Lakhs

(Rs. 92,50,000/-) to the Applicant/Petitioner (wife) by way of RTGS/NEFT/ cheque or through net banking and remit the said amount directly to the individual/sole account of Applicant/Petitioner (wife). The bank details of the Applicant/ petitioner (wife) is as below:

Bank name: State Bank of India (Tilaknagar Chembur Branch)

Account number: 43948452065.

IFSC Code: SBIN0011670

e. The Respondent (husband) agrees and undertakes that he shall pay an amount of Rs. 15 Lakhs (Rs. 15,00,000/-) to the Applicant/Petitioner (wife) as 1st installment on or before 15.04.2025, at the time of signing and filing of these Consent Terms before this Hon'ble Court.

f. The Respondent (husband) agrees and undertakes that he shall pay rest of the amount i.e., Rs. 77.50 Lakhs (Rs. 77,50,000/-) to the Applicant/Petitioner (wife) on or before 21.04.2025. The cheque details issued by the Respondent(husband) towards the Applicant (wife) are as below:

I. Cheque No: 746446

Cheque Date: 15.04.2025

Amount: Rs. 15,00,000/- (Rupees Fifteen Lakhs Only)

II. Cheque No: 746448

Cheque Date: 18.04.2025

Amount: Rs. 35,00,000/- (Rupees Thirty-Five Lakhs Only)

III. Cheque No:746450

Cheque Date: 18.04.2025

Amount: Rs. 42,50,000/- (Rupees Forty-Two Lakhs and Fifty Thousand Only)

g. The Respondent (husband) undertakes that he will continue to pay the maintenance amount of Rs. 25,000/- per month towards the maintenance of his son, to the Applicant/ Petitioner (wife) till April, 2025 and, the same is already paid by Respondent (husband).

h. The Applicant/Petitioner(wife) agrees and undertake that after receiving all the cheques as mentioned in clause f (I to III), she shall immediately deposit the same in her branch very next bank working day.

i. Both the parties agree that after the receipt of full payment i.e. on or before 21.04.2025, the Applicant/Petitioner (wife) and Respondent (husband) shall jointly submit an application/Petition before Ld. Family Court at Bandra, Mumbai, to convert the Petition for Divorce filed by the Respondent (husband) bearing no. A - 530 of 2017 into a petition for Divorce by Mutual Consent within period of one week after realisation of cheque mentioned in clause f (I to III) above. The Respondent (husband) shall give a copy of draft amendment in the divorce petition for converting the same into petition for Divorce by Mutual consent

j. The Applicant/Petitioner (wife) agrees and undertakes that after receiving the amount of Rs. 92.50 Lakhs (Rs. 92,50,000/-) by realisation of all cheques mentioned in clause f(I to III) above towards the full and final settlement, she with the minor son shall

vacate the house i.e., Flat B-704, Building No. 44, Amesh Cooperative Housing Society, Tilak Nagar, Mumbai - 400089, wherein they are residing presently, within a period of two weeks from the receipt of full payment and she shall handover vacant and peaceful possession of the said Flat to the Respondent (husband).

k. The Applicant/Petitioner (wife) will not sign any document related to current residence where the Petitioner(wife) and son Tanish are staying, (B/704, building no. 44, Amesh CHS, Tilak Nagar, Mumbai 400089) that from the Respondent (Husband) or even from any other party until she gets full and final amount of Rs. 92.50 lakhs after realisation of all cheques mentioned in clause f (I to III), if by any means she needs to sign any document. In case, the Respondent fails to pay the full and final amount till 21.04.2025, the Petitioner (wife) and son Tanish will continue their stay at the current residence and they will not vacate the premises. The Applicant/Petitioner (wife) shall give NOC to the Respondent (husband) with respect to the sale of the said flat within period of two days from receipt of the full amount.

l. That, in the event the Applicant/ Petitioner (wife) refuses to handover peaceful possession of the flat even after having received the full and final settlement amount, then the Court Receiver shall be appointed and he shall evict the Applicant/Petitioner (wife) by following the prescribed procedure and handover the vacant peaceful possession to the Respondent (husband).

m. That the Respondent (husband) agrees and undertake that, if he fails to pay the amount towards full and final settlement till 21.04.2025 then he shall pay an amount of Rs. 60,000/- per month towards the maintenance of son Tanish and the petitioner (wife) from the date of signing and filing of this consent terms before this Hon'ble Court i.e. 15.04.2025, instead of Rs. 25,000/- which he had been paying till date, from filing of these Consent Terms. The said amount of Rs. 60,000/- would be calculated after deducting the amount of Rs. 25,000/- which the Respondent (husband) would have already paid from 01.04.2025 till 30.04.2025. That means, the Respondent (husband) would be paying Rs. 35,000/- additionally to the Applicant/Petitioner (wife) for one month of April 2025 and thereafter, from May, 2025 he would be paying Rs. 60,000/- per month. The petitioner (husband) shall continue the expenses he has been doing like society maintenance, light bill, etc. until the payment of full settlement amount to the Petitioner (wife).

n. The Respondent (husband) undertakes that, he shall pay/clear entire maintenance arrears @ rate of 60,000/- from 01.04.2025 to 30.04.2025 within one month i.e., till 31.05.2025 and the Respondent (husband) will not dispute the same.

o. The Respondent husband undertakes that if he fails to pay the full and final amount of Rs. 92.50,000/till the date of 21.04.2025, the Respondent(husband) Shall forfeit the 1st installment of Rs. 15,00,000/ and the Respondent(husband) Shall not dispute the same.

p. The Applicant/Petitioner (wife) undertakes and confirms that she shall give Access of son Tanish to the Respondent (husband) once in a month and also on occasions such as Diwali, Ganesh Chaturthi and son's birthday. For the said access, both the parties would decide the date, place and time considering the convenience of the Applicant/Petitioner (wife) and the health of the son Tanish. Both the parties agree that the said meeting will be conducted in the presence of Applicant/Petitioner (wife). The meeting would be preferable in public places like garden/mall etc., convenient to the son Tanish.

q. Both the parties undertake that, during the access of the son Tanish to the Respondent (husband) they shall take care of son Tanish and his health-related issues during interaction with him and with each other.

r. The Applicant/Petitioner (wife) and the Respondent (husband) states that except as provided hereinabove, they have no claims of whatsoever nature monetary and/or otherwise against each other. The Applicant/Petitioner (wife) and the Respondent (husband) shall not raise any dispute about movable or immovable properties, which are owned by either of them, in future.

s. Once the full and final settlement is done, the Applicant/Petitioner (wife) and the Respondent (husband) shall unconditionally withdraw all allegations made against each other and further undertake not to interfere in each other's personal lives in future.

t. The Applicant/Petitioner (wife) and the Respondent (husband) undertake that they shall not file any complaint before police or any other authority, tribunal and court against each other or their relatives in respect of the disputes arising out of the present proceedings. The Applicant/Petitioner (wife) and the Respondent (husband) undertake that they shall not initiate any Civil/Criminal legal proceedings against each other arising out of present proceedings, in any court of law or before any authority.

u. Both the parties have permanently waived their right in movable or immovable property, if any, against each other, except properties involved in these consent terms.

v. Both the parties have also waived their rights, if any permanently in ancestral property against each other and self- earned property, except properties involved in theses consent terms.

w. The Applicant/Petitioner (wife) has agreed that in future she will not use the name of the Respondent (husband) i.e. Munish Gawde after both parties have obtained the Decree of Divorce by Mutual Consent. The Applicant/Petitioner (wife) shall follow prescribed procedure to correct the name accordingly in due course of time.

x. The Applicant/Petitioner (wife) and the Respondent (husband) shall strictly adhere to the terms and conditions mentioned in these present consent terms, time being of essence thereof.

y. Both the parties undertake to abide by these consent terms and the same shall remain binding upon both of them.

z. The Respondent (husband) agrees and undertakes to hand the following five gold jewelry items to the over Applicant/Petitioner (wife) at the time of signing of these present Consent Terms i.e., one gold necklace, 2 gold ear chains of the Petitioner and 2 gold chains of the son.

aa. It was agreed by and between the parties that the household items currently being used by Applicant/Petitioner (wife) for herself and minor son i.e. Fridge, Washing Machine, Televisions, Mixer, Water Purifier, Gas Stove, Cooking utensils, Bed, Couch, Table Fan, minor son's articles (chair, mat, stroller etc.), shall remain with the Applicant/Petitioner (wife) which she undertakes to remove at the time of vacating the flat. The whole wardrobe unit, kitchen unit like trolleys and hall showcase etc., would remain intact in the said flat.

bb. Both the parties to the present Consent Terms agree and undertake that they shall maintain peace until the Decree of Divorce and even thereafter. They shall not trouble or disturb each other or cause any inconvenience by any means after signing of these present Consent Terms or even in future.

cc. The Applicant/Petitioner (wife) agrees and undertakes that within seven (7) Court working days of the receipt of full and final settlement amount of Rs. 92,50,000/ from the Respondent (husband) and after realisation of all cheques mentioned in clause f (I to III)

in the Applicant/Petitioner(wife) account. More specifically, the Applicant/Petitioner (wife) shall be ready and willing to give no objection certificate for quashing of Charge Sheet bearing No. 203/PW/2017 arising out of FIR bearing no. 371/2016 pending before Ld. Court of Judicial Magistrate (First Class) at Vikhroli. The Applicant/Petitioner (wife) shall be ready and willing to file affidavit to that effect before this Hon'ble Court or any other Court.

dd. Both the Petitions i.e. Criminal Revision Application 212 of 2021 and Civil Writ Petition No. 8742 of 2024 stand disposed of in terms of these Consent Terms and order of the Hon'ble High Court. In case the Respondent(husband) fails to pay the full and final settlement amount till 21.04.2025, the, Petitioner(wife)can proceed further with the matters put on hold. Further, in case the Respondent (husband) pays the full and final settlement amount till 21.04.2025 the, Petitioner (wife) shall vacate the flat within 2 weeks after realisation of all cheques mentioned hereinabove paragraphs from the date of receipt of the full and final payment of 92.5 lakhs.

ee. Both the parties to these present Consent Terms agree and undertake that they shall adhere to all the terms of the present Consent Terms and shall willingly fulfill the terms within the stipulated time i.e. till 21.04.2025.

ff. These abovementioned matters are to be placed on board for compliance on or after 23.04.2025 after filing of these present Consent Terms.”

5. The various statements made in the Consent Terms are accepted as undertakings given to this Court.

6. Accordingly, the Civil Writ Petition No.8742 of 2024 and the Criminal Revision Application No.212 of 2021 are disposed of in terms of the Consent Terms.

7. Stand over to **23rd April 2025** at 2.30 p.m., for reporting compliance of Clause 6(C) of the Consent Terms.

BHALCHANDRA
GOPAL
DUSANE

(MADHAV J. JAMDAR, J.)

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2025.04.15
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