

POOJA BHUNESHWAR PRASAD SHARMA v. ASHISH VINAYBHAI MISHRA ,
(2022-2)206 PLR 687 , 2022 SCeJ 0575, 2022 PLRonline 9866

Supreme Court of India

B.V. Nagarathna, J.

POOJA BHUNESHWAR PRASAD SHARMA v. ASHISH VINAYBHAI MISHRA

TRANSFER PETITION (CIVIL) NO.618 OF 2021

9th May 2022

Hindu Marriage Act, 1955 - S.13-B, S.13-B(2) - Though settlement agreement has been arrived at between the parties for seeking dissolution of their marriage by a decree of divorce by mutual consent nevertheless, the parties have been at loggerheads - Parties are living separately and there is no possibility of the parties reconciling their disputes and co-habiting together - Stipulation of six months' period indicated in Sub-section (2) of Section 13-B of the Act dispensed with . *Amardeep Singh Versus Harveen Kaur - 2017 PLRonline 0009, relied.*

Petitioner Counsel: ASHUTOSH GHADE , Respondent Counsel: SAMEER SHRIVASTAVA

JUDGEMENT

1. Transfer Petition No. 618 of 2021 has been filed by the petitioner who is the wife of the respondent seeking transfer of Matrimonial Petition being H.M.P. No. 11 of 2021 titled as "Ashish Vinaybhai Mishra Vs. Pooja Bhuneshwar Prasad Sharma" pending on the file of the learned Principal Judge, Family Court, Bharuch, District Bharuch, Gujarat to the Court of competent jurisdiction in District Dhamtari, Chhattisgarh.

2. Transfer Petition No. 1268 of 2021 has been filed by the husband seeking transfer of MJC No. 54 of 2021, titled as "Pooja Sharma Versus Ashish Vinay Mishra" pending on the file of the learned Principal Judge, Family Court, Dhamtari, District-Dhamtari, Chhattisgarh to the Court of Principal Judge, Family Court, Bharuch, District-Bharuch, Gujarat.

3. Since, these transfer petitions have been filed by the parties inter se, they have been connected together and have been heard and disposed of by this common order.

4. Learned counsel for the respective parties submitted that during the pendency of these petitions, the matter was referred to the Supreme Court Mediation Centre and parties have arrived at a mediated settlement which is submitted by the Supreme Court Mediation Centre. They further submitted that as per the terms of settlement dated 13.12.2021, the parties have decided to seek dissolution of their marriage by a decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955(hereinafter referred to as 'the Act' for the sake of brevity). They further submitted that the parties are present before this Court and hence, these transfer petitions may be disposed of in terms of the settlement

arrived at between them by exercising jurisdiction under Article 142 of the Constitution of India. The parties are present before this Court. They have been identified by their respective advocates. When queried by this Court, they submitted that they have indeed arrived at an amicable settlement. They have decided to dissolve their marriage by a decree of divorce by mutual consent on certain terms and conditions.

5. The petitioner-wife stated that one of the terms of the settlement is payment of a sum of Rs. 28 lakhs (Rupees Twenty eight lakhs) by the respondent-husband to her, which she has received in two installments. She has no objection for this Court to dissolve the marriage by a decree of divorce by mutual consent. Petitioner-wife has also stated that she has received a necklace set from the husband and that she has no further claim whatsoever against her respondent-husband.

6. The petitioner in the connected petition who is the husband also submitted that he has no objection for these cases to be disposed of by granting divorce by mutual consent between the parties.

7. It is also stated at the Bar that certain cases which have been filed by the parties against each other shall also be withdrawn within fifteen days from the date of disposal of these petitions. The details of the said cases are mentioned in paragraph 10 of the said Settlement Agreement. In the circumstances, settlement agreement dated 13.12.2021 arrived at between the parties is taken on record.

8. Learned counsel for the respective parties submitted that the marriage between the parties may be dissolved by granting divorce by mutual consent under Section 13-B of the Act read with Article 142 of the Constitution.

9. In the circumstances, the settlement agreement which is appended to the Transfer Petition No. 618 of 2021 is taken on record and perused.

10. It is noted that though the settlement agreement has been arrived at between the parties for seeking dissolution of their marriage by a decree of divorce by mutual consent is dated 13th December, 2021, nevertheless, the parties have been at loggerheads and the petitions have been filed by them, inter se, seeking inter-alia, restitution of conjugal rights, maintenance and also a criminal proceeding is pending. It is also noted that the parties are living separately and there is no possibility of the parties reconciling their disputes and co-habiting together.

11. Learned counsel for the respective parties also submitted that the stipulation of six months' period indicated in Sub-section (2) of Section 13-B of the Act may also be dispensed with and in this regard, they placed reliance on a judgment of this Court in the Case of "**Amardeep Singh Versus Harveen Kaur**" - **2017 PLRonline 0009, [2017 (8) SCC 746]**. Having regard to the aforesaid judgment, stipulation of six months as stated Sub-section 2 of Section 13-B of the Act is dispensed with.

12. On perusal of the terms of settlement, I find that they are lawful and there is no reason as to why the same cannot be accepted.

13. In the circumstances, by exercising jurisdiction under Article 142 of the Constitution, the marriage solemnized between the parties on 24.11.2017 in Bharuch is dissolved by a decree of mutual consent in terms of Section 13-B of the Act.
14. It is needless to mention that the said settlement agreement shall be read as part and parcel of this order.
15. Registry to draw up a decree in the aforesaid terms.
16. Consequently, these transfer petitions are rendered infructuous and are disposed of accordingly.