

ITEM NO.5

COURT NO.5

SECTION XVIA

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Transfer Petition(s) (Civil) No(s). 1862/2013

ANJU GARG

Petitioner(s)

VERSUS

VIKAS GARG

Respondent(s)

(With appln(s) for Joint application for Divorce and stay and office report)

WITH

T.P.(C) No. 550/2014

(With appln.(s) for stay and Office Report)

Date : 24/09/2014 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

HON'BLE MR. JUSTICE PRAFULLA CHANDRA PANT

For Petitioner(s)

Mr. Vishnu Tayal, Adv.

Mr. Vishnu Sharma, Adv.

Mr. Joseph Aristotle S., Adv.

For Respondent(s)

Mr. H.D. Thanvi, Adv.

Mr. Rishi Matoliya, Adv.

Mr. Sarad Kumar Singhania, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The transfer petitions are disposed of in  
terms of signed order.

(Neeta)

Sr. P.A.

(Signed order is placed on the file)

(Usha Sharma)

COURT MASTER

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO. 1862 OF 2013

ANJU GARG

Petitioner(s)

VERSUS

VIKAS GARG

Respondent(s)

WITH

TRANSFER PETITION (CIVIL) NO. 550 OF 2014

O R D E R

These transfer petitions have been preferred by petitioner - Ms. Anju Garg (wife) for transfer of two cases in which respondent Mr. Vikas Garg (husband) and his relatives Mr. Ramesh Garg & Ors. have been impleaded as party respondents. Initially, the matter was referred to Mediation Centre of this Court but mediation failed later on parties appeared before the Court and requested to adjourn the matter to enable them to settle the dispute amicably.

A Joint Settlement Agreement has been filed by parties signed by Ms. Anju Garg (wife) and Mr. Vikas Garg (husband) relevant portion of which reads as follows:

"2. That the parties are living separately since October, 2012 and there exists no more willingness of the parties to reside and cohabitate together anymore due to irreconcilable differences, therefore the parties have decided to dissolve the marriage between them by mutual consent. In order to

resolve the dispute between the parties they i.e. the petitioner and respondent herein have arrived at the settlement. Details of litigation pending between the first and second party is as under:

Cases filed by the Petitioner / The party of first part

1. FIR NO. 46/2012 lodged at P.S. Mahila Thana Sonipat Haryana and further proceedings arising out of the said FIR.
2. A case under Section 125 Cr.P.C. being petition No. 99/2013 pending before the Ld. District Judge / Family Court, Sonipat, Haryana;
3. A petition under Section 12 of the D.V. Act, 2005 being case no. 278/2013 pending before the Ld. CJM Sonipat;
4. The present T.P.(Civil) No. 1862/2013 before this Hon'ble Court;
5. And another Transfer Petition No. 550/2014 before this Hon'ble Court;

Cases filed by the Respondent / The part of second part

1. A divorce Petition being O.P. No. CO 526 of 2012;
2. A Revision Petition No. CRRF 115 of 2014 filed before the Punjab and Haryana High Court at Chandigarh;
3. A Revision Petition No. CRR 1787 of 2014 filed before the Punjab and Haryana High Court at Chandigarh;
4. A Revision Petition No. CRR 2398 of 2014 filed before the Punjab and Haryana High Court at Chandigarh;

5. A case filed by the father of the respondent / second part being case no. 276 of 2012 pending before the District Judge Jodhpur titled as Ramesh Kumar Garg Vs. Anju Garg & Ors.

That there is no possibility or probability of the parties to the agreement to live together as husband and wife in future and thus they have mutually agreed that the marriage be dissolved by way of mutual consent. Both the parties have amicably settled all their disputes and both parties are in sound and disposing mind and under no Fear, Fraud, Influence, Coercion or under any force or compulsion have mutually agreed to end this matrimonial relation on terms and conditions hereinafter mentioned:

NOW THE DEED OF AGREEMENT / COMPROMISE AS UNDER:

1. That it has been mutually agreed between the parties that party of the Second Part shall pay Rs.11,50,000/- (Rupees Eleven Lacs and Fifty Thousand Only) by way of Demand Draft, as detailed hereinafter, in total as FULL AND FINAL PAYMENT AND SETTLEMENT to the party of the First Part in respect of her entire and all other claims towards cost of maintenance i.e. present, past and all future maintenance, also towards all other claims that First Party may have against party of the

Second Part due to said legal relation that includes claims with respect to dowry, Streedhan, Alimony, gifts, expenditure, or any other claim what so ever that the party of the First Part may claim against party of Second Party due to said matrimonial relation. The party of the first part will have no right of claim on any of the property movable or immovable, self acquired, ancestral, joint or HUF of the Second Party or his parents, or his family for any past, present or future claims which have all been settled in terms of the present Consent Terms.

2. That it has been further mutually agreed that both the parties shall pray before this Hon'ble Supreme Court to transfer to itself the matrimonial-divorce Petition being OP No. CO 526 of 2012 pending at Family Court, Jodhpur and convert the said petition into a petition under Section 13(B) of HMA and pass a decree of dissolution of marriage by Mutual Consent. In the alternative, it is also prayed to Hon'ble Court to waive off the statutory period of 6 months under Article 142 of Indian constitution or this Hon'ble Court may direct the Family Court Sonipat to exempt the 6 months time in the proceedings of 13(B) as the divorce petition under Section 13 HMA is pending since, 2012. If this Hon'ble Court could not exercise the discretion under article 142 of Constitution of India, in that event, it has been further mutually agreed that both the parties shall approach the

District/Family Court at Sonipat, Haryana with the matrimonial petition under Section 13(B) of HMA within the period of three weeks of the disposal of the present matter annexing the present settlement agreement and order of this Hon'ble Court. It is further agreed that the petition under Section 13(B) of HMA will be prepared by the petitioner at Sonipat.

3. That it is also agreed between the parties that both parties make request before this Hon'ble Court for quashing of Criminal Proceedings arising out of FIR No. 46 of 2012 lodged at P.S. Mahila Thana Sonipat Haryana under Article 142 of Constitution of India and

4. It has also been agreed upon between the parties that the First Party and Second Party will pray before this Hon'ble Court to quash the following cases, or in the alternative the concerned parties will move for withdrawal of the following cases in an appropriate court within the period of three weeks from the date of the order of this Hon'ble Court:

Cases filed by the Petitioner / The party of first part

1. A case under Section 125 Cr.P.C. being petition No. 99/2013 pending before the Ld. District Judge / Family Court, Sonipat, Haryana;

2. A petition under Section 12 of the D.V. Act, 2005 being case no. 278/2013 pending before the Ld. CJM Sonipat;

3. The present T.P.(Civil) No. 1862/2013 before this Hon'ble Court;

4. And another Transfer Petition No. 550/2014 before this Hon'ble Court;

Cases filed by the Respondent / The part of second part

1. A divorce Petition being O.P. No. CO 526 of 2012;

2. A Revision Petition No. CRRF 115 of 2014 filed before the Punjab and Haryana High Court at Chandigarh;

3. A Revision Petition No. CRR 1787 of 2014 filed before the Punjab and Haryana High Court at Chandigarh;

4. A Revision Petition No. CRR 2398 of 2014 filed before the Punjab and Haryana High Court at Chandigarh;

5. A case filed by the father of the respondent / second part being case no. 276 of 2012 pending before the District Judge Jodhpur titled as Ramesh Kumar Garg Vs. Anju Garg & Ors.

5. That it has been further mutually agreed that both the parties shall pray before this Hon'ble Supreme Court to transfer to itself the matrimonial-divorce Petition being OP No. CO 526 of 2012 pending at Family Court, Jodhpur and convert the said petition into a petition under Section 13(B) of HMA and pass a decree of dissolution of marriage by mutual consent. In the alternative, it is also prayed to Hon'ble Court to waive off the the statutory period of 6 months under Article 142

of Indian constitution or this Hon'ble Court may direct the Family Court Sonipat to exempt the 6 months time in the proceedings of 13(B) as the divorce petition under Section 13 HMA is pending since, 2012.

6. It has been agreed between the parties that the said amount of Rs.11,50,000/- (Rupees Eleven Lacs and Fifty Thousand Only) shall be paid by the second party and received by the first party in two(2) installments through Bank drafts. The first installment of Rs.6 lacs (Six Lacs only) will be paid at the time of first motion at Sonipat Family Court. Second installment shall be made on the day of second motion / on the date of final mutual divorce.

7. It is further agreed by both the parties that the steps required to be taken for compliance of above para of this agreement will be taken by both the parties within the period of three weeks from the date of order of Hon'ble Supreme Court in the present matter. However, as per the petitioner - wife, she will withdraw the above proceedings under the D.V. Act being Case No. 278 of 2013 pending before the Id. CJM Sonipat on the day of second motion of petition under Section 13 B but the husband-respondent is not agreeable to that proposal and therefore, both will pray before this Hon'ble Court for the same issue.

8. That any other complaint / all other



complaints / cases filed by either of the parties and their family members against each other and their family members shall be treated as withdrawal / closed. That it is further agreed that neither of parties shall take any coercive action against each other in the future and shall ensure safe, secure and cordial atmosphere for each other and their families respectively.

9. That it is further agreed between the parties that neither of the parties shall file any complaint/ suit/ petition/ FIR and/ or any other proceedings in the future before any court of law/ any authority in relation to this matrimonial dispute. Both the parties undertake that there is no other complaint/ petition/ suit/ FIR pending against each other as mentioned above and if the same is found, the same shall stand null and void and compromised in terms of this "Settlement Agreement"

10. That both the parties shall assist each other in prudently pursuing the petition for dissolution of marriage by mutual consent and shall appear in the concerned Court as and when necessary and required to record necessary statements as per law in getting the decree of Divorce by mutual consent.

11. That both the parties shall have on satisfaction of aforementioned terms no further claims whatsoever against each other

from this day onwards and terms of the aforementioned deed are binding on them and in the event of breach of any clause of agreement by any of the party, the defaulter would be liable to face legal proceedings.

12. That this compromise / agreement is being executed voluntarily and with mutual consent without any fear, pressure, force, fraud, undue influence, coercion in the presence of members of the family / relative / friends.

13. A copy of present agreement is being prepared in-original for being kept by each party separately. This Deed of Compromise executed by the parties on this day of 1.9.2014 at Delhi in Supreme Court Compound."

Having heard learned counsel for the parties to give quietus to the family dispute we pass the following order:

1. Proceeding under Section 125 Cr.P.C. being petition No. 99/2013 pending before the Ld. District Judge / Family Court, Sonipat, Haryana is called for and is quashed;
2. Record of petition under Section 12 of the D.V. Act, 2005 being case no. 278/2013 pending before the Ld. CJM Sonipat is called for and is quashed;
3. Record of divorce Petition being O.P. No. CO 526 of 2012 pending before the Family Court Jodhpur is called for and is quashed.
4. Record of Revision Petition No. CRRF 115 of 2014 filed before the Punjab and Haryana High Court at Chandigarh is called for and is quashed;

5. Record of Revision Petition No. CRR 1787 of 2014 filed before the Punjab and Haryana High Court at Chandigarh is called for and is quashed;
6. Record of Revision Petition No. CRR 2398 of 2014 filed before the Punjab and Haryana High Court at Chandigarh is called for and is quashed;
7. Record of case no. 276 of 2012 pending before the District Judge Jodhpur titled as Ramesh Kumar Garg Vs. Anju Garg & Ors. Is called for and is quashed;
8. Record of FIR NO. 46/2012 lodged at P.S. Mahila Thana Sonipat Haryana and further proceedings arising out of the said FIR are called for and is quashed.

Parties are given liberty to file joint petition for dissolution of marriage by mutual consent under Section 13B of Hindu Marriage Act in the Family Court at Sonapat, Haryana with a petition for waiver of the statutory period of six months. Such petition be filed by the parties within 15 days. If such petition is filed, the family Court will waive statutory period in view of the fact that Ms. Anju Garg (petitioner) and Mr. Vikas Garg (respondent) are living separately since October, 2012 and pass a decree of dissolution of marriage by mutual consent on the first day of appearance or within a week thereof.

Mr. Vikas Garg (respondent) has handedover a draft of Rs.11.50 lacs to Ms. Anju Garg (Petitioner) in the Court in terms of Joint Memo of Settlement.

The transfer petitions stand disposed of with aforesaid observation.

.....J.  
(SUDHANSU JYOTI MUKHOPADHAYA )

.....J.  
(PRAFULLA CHANDRA PANT)

NEW DELHI;  
SEPTEMBER 24, 2014