

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO.943 OF 2009

SWETHA S

PETITIONER

VERSUS

KANISHK KUMAR

RESPONDENT

O R D E R

In this petition filed under Section 25 of the Code of Civil Procedure, the petitioner has prayed for transfer of Matrimonial Suit No.321 of 2009 filed by the respondent under Section 13(i-a) & (iii) of the Hindu Marriage Act, 1955 (for short 'the Act') which is pending in the court of Principal Judge, Family Court, Patna to the Family Court at Bangalore.

On 10.5.2010, learned counsel for the parties gave out that their respective clients are prepared to amicably settle all the disputes and seeks dissolution of marriage by mutual consent.

In furtherance of the statement made by the learned counsel, the parties have filed Memo of Compromise dated 10.05.2010 along with a petition under Section 13-B of the Act for dissolution of marriage by mutual consent.

The Terms of

Compromise arrived at between the parties are as under :-

"(I) Respondent against alimony and towards the maintenance of the daughter Baby Rajshree a total sum of Rs.13,50,000/- (Rupees Thirteen lacs Fifteen Thousand only) by way of draft drawn in favour of the petitioner on or before 31st December, 2010 in three

2

installments as under :-

- (i) Rs.3.5 lacs (Rupees Three lacs Fifty Thousand Only) on or before 30th June 2010.
- (ii) Rs.5 lacs (Rupees Five lacs only) on or before 30th September 2010.
- (iii) Rs.5 lacs (Rupees Five Lacs Only) on or before 31st December 2010.

(II) C. Mis. No.947 of 2009 pending in the Court of VIIth Additional Chief Metropolitan Magistrate at Bangalore filed by the petitioner against the respondent and his parents under Section 3 of the

Domestic Violence Act, 2005 be dismissed.

(III) Petition will not raise any claim in future arising out of the marriage.

(IV) Neither party in future institute any criminal and civil proceedings against each other.

(V) Parties have agreed for to enter into compromise out of free will and without coercion."

We have heard learned counsel for the parties and perused the record. Since the marriage between the parties has irretrievably broken and there is no possibility of their living together, we deem it proper to accept the compromise and dispose of the matter in the following terms :-

(I) Respondent Kanishk Kumar shall pay to the petitioner a sum of Rs.13,50,000/- (Rupees thirteen lacs fifteen thousand only) towards permanent alimony and maintenance of the daughter of parties namely Baby Rajshree in three installments in the form of demand drafts. Of these, the first installment of Rs.3,50,000/- (Rupees three lacs fifty thousand only) shall be paid by way of demand draft on or before 30.06.2010. The remaining two installments of Rs.5,00,000/- (rupees five lacs

3

only) each shall be paid on 30.09.2010 and 31.12.2010 by way of demand drafts.

(II) The proceedings of Criminal Miscellaneous No.947 of 2009 filed by the petitioner against the respondent and his parents under Section 3 of the Protection of Women from Domestic Violence Act, 2005 which are pending in the Court of VIIth Additional Chief Metropolitan Magistrate at Bangalore are quashed.

(III) Matrimonial Suit No.321 of 2009 pending in the court of Principal Judge, Family Court, Patna is transferred to this Court and a decree of divorce by mutual consent is passed under Section 13-B of the Act read with Article 142 of the Constitution.

.....J.
(G.S. SINGHVI)

.....J.
(ASOK KUMAR GANGULY)

NEW DELHI,
MAY 12,2010.

4

ITEM NO.36

COURT NO.11

SECTION XVIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

TRANSFER PETITION (CIVIL.) NO(s). 943 OF 2009

SWETHA S

Petitioner(s)

VERSUS

KANISHK KUMAR

Respondent(s)

(With appln(s) for stay and office report)

Date: 12/05/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr.Naresh Kaushik, Adv.
Mr.Sanjeev K.Bhardwaj, Adv.
Mrs Lalita Kaushik,Adv.

For Respondent(s) Mr. S.K. Sinha,Adv.

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

The transfer petition is disposed of in terms of the
signed order.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file)