

MHTH060003652022



Presented on : 28.01.2022
Registered on : 01.02.2022
Decided on : 03.08.2022
Duration :Y.00 M06 D.02.

**IN THE COURT OF DISTRICT JUDGE-6, KALYAN,
AT : KALYAN
(Presided over by P. R. Ashturkar)**

Marriage Petition No.23/2022

Exh.No.:- 11

Mr. Aniket Prakash Shinde

Age : 30 years, Occ. : Business
R/at : Audumbar Prasad society,
Siddeshwar lane, Parnaka,
Kalyan (W).

..Petitioner No.1

AND

Mrs. Shivani Aniket Shinde

Age: 26 years, Occupation : Housewife
R/at : Shree Samarth Krupa, Mhasa road,
Sai Nagar, Murbad.

..Petitioner No.2

Petition for Mutual Consent Divorce
u/s.28 of Special Marriage Act, 1954.

Learned advocate S.S. Chavan for petitioner no.1 and 2

-: JUDGMENT :-
(Delivered on this 03rd day of August, 2022)

1] This petition is filed for divorce by mutual consent under

section 28 of Special Marriage Act, 1954.

2] The facts of petition may be summarized as under:

Petitioners claimed that they got married on 27.11.2020 under the provisions of Special Marriage Act, 1954. After marriage they started to reside together at Siddeshwar lane, Parnaka, Kalyan and stayed together till 15/01/2021. They do not have any issue born out of said wedlock. Thereafter, disputes and differences arose between them and they realized that it is difficult for them to stay together as husband and wife. Therefore, they are living separately since 16/01/2021 on account of their differences. They claimed that, in spite of all efforts made by them and their families, no reconciliation between them is possible. They have, therefore, decided to file a petition for divorce by mutual consent. Further, the petitioner No.1 and 2 have mutually agreed that they will relinquish their entire rights and interests over the self acquired and ancestral property of each other. Further, both petitioners have no claim or demand or allegation of any nature against each other.

3] Having considered the contents in the application and the evidence of both petitioners, following points arise for my determination and I record my findings against each of them along with the reasons stated below.

POINTS

FINDINGS

1] Do the petitioners prove that they are living separately for a period of one year or more since before institution of this petition?

.. Proved.

2] Do petitioners further prove that they have not been able to live together and have

- mutually agreed that their marriage should be dissolved ? .. Proved.
- 3] Are petitioners entitled for the divorce by mutual consent ? .. Yes.
- 4] What order and decree ? .. As per final order.

-: REASONS :-

As to point Nos.1 to 3 :-

4] Petitioner No.1 & 2 have deposed on oath below Exh.6 and 7 respectively. They have filed evidence close pursis at Exh.10. From their statements, it is clear that they are living separately for more than one year. It also reveals that, there is no cohabitation between them since then. This petition is filed on 28.01.2021. It means for more than six months the petitioners are living separately.

5] As agreed between the petitioners, they have mutually decided and agreed for mutual consent divorce subject to conditions mentioned in the affidavits.

6] Petitioner No.1 is residing within the jurisdiction of this court. Therefore, this Court has jurisdiction to decide this petition. Both the petitioners have not withdrawn their consent for mutual divorce. A period of six months has already elapsed. They have complied with all the ingredients as laid down under Section 28 of Special Marriage Act, 1954. The report of the mediator reflects that both parties have decided to take divorce by mutual consent. The parties are residing separately since 16/01/2021, thus I am satisfied that there is continuous consent of both the parties to obtain divorce by mutual consent. Therefore, they are entitled for decree of divorce by mutual consent.

7] Considering the oral as well as documentary evidence produced by the parties to this petition, I hold that petitioners proved point nos.1 to 3.

As to Point No. 4 :-

8] In view of my findings to Point Nos.1 to 3, the petition is allowed and accordingly, I proceed to pass the following order :

ORDER

1] The petition is allowed.

2] The marriage of petitioners solemnized on 27.11.2020 is hereby dissolved by decree of divorce by mutual consent with effect from the date of this order.

3] Parties to bear their own costs.

4] Decree be drawn up accordingly.

(Dictated and delivered in open court.)

Sd/

Kalyan
03.08.2022.

(P. R. Ashturkar)
District Judge-6, Kalyan.