

**COMMON ORDER BELOW EXH. 1 IN
CIVIL SUIT NOS. 10/2017 & 30/2019**

(1) The Civil Suit No.10/2017 is by the husband against his wife for grant of divorce under Section 32(dd) and 32(g) of the Parsi Marriage and Divorce Act, 1936. The Civil Suit No.30/2019 is by the wife against the husband for dissolution of the marriage under Section 32(dd) of the said Act and the custody of the minor son. In both the suits, the defendants had filed their written statement and issues are framed, as follows :-

Civil Suit No. 10/2017

1. Whether plaintiff proves that the defendant treated him with cruelty?
2. Whether plaintiff proves his entitlement for permanent custody of minor son, Marc ?
3. Whether the plaintiff prove his entitlement for decree of divorce ?
4. Whether the plaintiff proves his entitlement for judicial separation?
5. What order ?

Civil Suit No. 30/2019

1. Whether plaintiff proves that the defendant treated her with cruelty?
2. Whether plaintiff proves her entitlement for permanent custody of minor son, Marc ?
3. Whether plaintiff proves her entitlement for permanent alimony and maintenance for herself and minor son Marc from the defendant, towards their well-being, education etc.
4. Whether the plaintiff proves her entitlement for separate residence in Mumbai ?
5. Whether the plaintiff proves her entitlement for decree of divorce ?
6. What order ?

(2) Vide order dated 16.01.2021, the parties were referred for mediation to the Mediator Judge. The learned Mediator Judge, Shri. C.P. Bhagwat, Secretary, D. L. S. A., Pune, has submitted his mediation report which is at Exh.232 in Civil Suit No.10/2017, along with the consent terms agreed by the parties. As per the consent terms, both the parties have decided to dissolve their marriage on certain terms and conditions, which are as follows :-

- (a) The decree of divorce shall be passed in the present matter without prejudice to all the allegations, all other reliefs, all contentions, all documents, etc. filed by the parties against each other.
- (b) The parties shall be at liberty to rely upon all the documents, affidavits, etc. filed by them for all other reliefs, including under the Protection of Women from Domestic Violence Act.
- (c) The matter will henceforth be conducted in the usual manner, however, the parties both agree that the Hon'ble Principal District Judge, Pune, will not be required to deliberate the question of divorce.

(3) Both the parties along with their respective advocates are present before the Court. They were asked whether these consent terms are signed by them and whether the same are agreed with free mind and without any force or fraud and they both submitted that they have mutually decided to dissolve their marriage. They both identified their signatures on the said consent terms which is at Exh.232-A in Civil Suit No.17/2010 and confirms the contents. The Court asked them whether there is any possibility of reunion and whether they can give second thought to their decision of dissolution of their marriage, to which, they both replied in negative and submitted that they have consciously decided to dissolve their marriage.

(4) From the record of both the suits, it is clear that the parties belong to Zoroastrian Parsi Community and they got married on 24.05.2008 at Mumbai and, thereafter, they started residing together in Pune. From the record of both the suits, it is clear and on which there is no dispute that the parties are residing separately from 27.05.2017. It is matter of record that Civil Suit No.10/2017 was presented on 22.02.2017 and Civil Suit No. 30/2019 was initially filed before Hon'ble Bombay High Court on 30.06.2017 and thereafter, transferred to this Court, where it was re-registered on 12.12.2019.

(5) It is thus clear that the marriage of the parties was solemnized under the Parsi Marriage and Divorce Act, 1936, and they are living separately for a period of more than one year and they have not been able to live together and have mutually agreed without there being any force or fraud to dissolve their marriage. It is true that both the suits are filed under Section 32(dd) of the Parsi Marriage and Divorce Act, however, the provisions of Section 32-B of the said Act permits dissolution by mutual consent and the Court is satisfied that the requirements of Section 32-B of the Parsi Marriage and Divorce Act, are satisfied. In this view of the matter, the following order is passed :-

ORDER

- (i) The marriage solemnized between Rishad Darayas Cooper and Mrs. Nahida Rishad Cooper on 24.05.2008 at Bombay, stands dissolved under Section 32-B of the Parsi Marriage and Divorce Act, 1936, on the terms and conditions agreed between them below Exh.232-A, w.e.f. the date of decree.

- (ii) The decree be drawn up accordingly.
- (iii) Both the suits to proceed on the issues other than divorce. Adjourned to 26.03.2021.

Place- Pune
Date -19.03.2021

(Neeraj P. Dhote)
Principal District Judge,
Pune.

I affirm that the contents of this P.D.F., file order /judgment are same word for word as per original Judgment.

Name of Steno : Anil Tawale
Stenographer (Grade-1)

Court Name : Shri. Neeraj P. Dhote
Principal District Judge,
Pune.

Date : 19.03.2021
Judgment signed by P.O. on : 19.03.2021
Judgment uploaded on : 19.03.2021