

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO. 1577 OF 2012

SWIKRATI SINGH AGARWAL

PETITIONER(s)

VERSUS

TUSHAR AGARWAL

RESPONDENT(s)

WITH

TRANSFER PETITION (CIVIL) NO. 422 OF 2013

ALKA AGARWAL & OTHERS

PETITIONER(s)

VERSUS

SWIKRATI SINGH AGARWAL

RESPONDENT(s)

O R D E R

On 7.10.2013, at the request of learned counsel for the parties, the matter was referred to the Supreme Court Mediation Centre (for short "the Centre") to explore the possibility of settlement between the parties through the process of mediation. The Centre nominated Ms. Varuna Bhandari Gugnani, advocate as mediator. Due to her efforts, the parties have been able to settle their matrimonial disputes amicably.

2. The following cases are pending between the parties:-

A. CASES FILED BY WIFE SWIKRITI SINGH AGARWAL

1. Case No. 514 of 2012 under Section 125 Cr.P.C. filed on 31.10.2012 before Family Court, District Jhansi.
2. Case No. 1769 of 2012 under Sections 12, 17, 18, 19, 20, 22 and 23 of Domestic Violence Act filed on 26.11.2012 before Judicial Magistrate No. 13 District Jhansi against Respondent husband Tushar Agarwal, his father, mother, sister and brother-in-law.
3. FIR No. 34 of 2013 dated 28.1.2013 under Sections 498A, 323, 504, 506 of I.P.C. and Section 3 and 4 of Dowry Prohibition Act against Respondent husband Tushar Agarwal, his father, mother, sister and brother-in-law in compliance of order dated 20.12.2012 passed by Chief Judicial Magistrate No.6 District Jhansi.
4. Appeal No. 82 of 2013 under section 29 of Domestic Violence Act filed on 20.6.2013 against order passed by Judicial Magistrate No. 13 District Jhansi disposing the petition for interim maintenance.

5. Transfer Petition (Civil) No. 1577 of 2012 before Hon'ble Supreme Court of India.
6. Maintenance Petition u/s 24 of Hindu Marriage Act r/w Sec 151 of C.P.C. dated 19.10. 2012 filed before the Principal Family Judge 4, Bangalore.

B. CASES FILED BY HUSBAND TUSHAR AGARWAL AND COMPLAINTS FILED BY HIS FATHER MR. PRAMOD KUMAR

7. M.C. No. 1157 of 2012 filed on 31.3.2012 before the Principal Family Judge 4, Bangalore under Section 13(1)(ia) of Hindu Marriage Act, 1955
8. FIR No. 0111/2012 dated 24.11.2012 registered at Airport Police Station, Bangalore
9. Transfer Petition (Civil) No. 422 of 2013 filed before Hon'ble Supreme Court by Mrs. Alka Agarwal (Mother of Husband Tushar Agarwal) for transfer of Domestic Violence Case No. 1769 of 2012 from Jhansi to Bangalore.
10. Income tax complaint filed by Mr. Pramod Kumar (Father of husband Tushar Agarwal) against Mr. K.P Singh (Father of wife Swikrati Singh Agarwal) at Jhansi (U.P.)
11. Complaint filed by Mr. Pramod Kumar (Father of husband Tushar Agarwal) in S.B.I against Mr. K.P Singh (Father of wife Swikrati Singh Agarwal) for the charges of corruption against Mr. K.P Singh.
12. Application u/s 195 (1) (b) of the criminal procedure code of 1973 filed by Tushar Agarwal before the Principal Family Judge, Bangalore on 30.11.2012.

3. The terms of settlement, which have been reduced in writing, inter alia, read as under:

2. In view of the terms of this settlement-agreement, both the parties herein undertake to withdraw all the above pending cases besides all other pending petitions filed by them against each other before any court of law or any other forum and would take all necessary steps for the same.

3. Both the parties undertake that henceforth they or anybody on their behalf would not file any civil/ criminal complaint /FIR or any case against each other and/or their family members with regard to the present matrimonial alliance.

4. Both the parties also undertake to withdraw any other pending cases/ complaints/FIRs, if any, which have been filed against each other and/or their respective families.

5. That Respondent Husband Tushar Agarwal has agreed to pay a total sum of Rs. 30,00,000/- only (Rupees Thirty Lacs only) to the Wife Swikrati Singh Agarwal as full and final settlement towards marriage expenses; stridhan, maintenance, permanent alimony and her past present and future claims including maintenance of the minor child Anay Agarwal and his past, present and future claims etc.

6. That out of the total amount of Rs. 30,00,000/- as agreed above, an amount of Rs. 10, 00,000/- only (Rupees Ten Lacs only) shall be paid by Husband Tushar Agarwal by way of a demand draft payable at Sadiakuwa Branch of State Bank of India (Bank Code 30339) in favour of Wife Swikrati Singh

Agarwal at the time of signing of this Settlement Agreement.

7. The Petitioner Swikrati Singh Agarwal and Respondent Tushar Agarwal shall jointly pray for decree of divorce before Hon'ble Supreme Court invoking the inherent power under Article 142 of the Constitution of India on the next date of hearing of the Transfer Petition (Civil) No. 1577 of 2012 and remaining amount of Rs. 20,00,000/- only (Rupees Twenty Lacs only) shall be paid by Husband Tushar Agarwal by way of a demand draft payable at Guna Collectorate Branch (Branch Code 30391) in favour of Wife Swikrati Singh Agarwal at the time of passing of the order by Hon'ble Supreme Court.

The petitioner wife Swikrati Singh Agarwal will set aside Rs. 05 lakhs in a fixed deposit under the guardianship of Swikarti Agarwal in a nationalized bank in the name of minor son Anay Agarwal to take care of all his maintenance needs till he reaches the age of 18. She or anybody else will not be entitled to raise any lien or encumbrance on this amount or to withdraw this sum of Rs. 05 lakhs till the minor son reaches the age of 18, (i.e. till 6.2.2029) and is in a position of making just decisions for himself and to shoulder the responsibility of his life independently on which date the son will be free to use this sum as he wishes. However in this period, the petitioner Swikrati Singh Agarwal will be at free will to withdraw the interest accruing out of this principal amount, for the maintenance needs of minor Anay Agarwal.

8. In case, Hon'ble Supreme Court directs the parties to approach the Family Court for dissolution of marriage by mutual consent then the remaining amount of Rupees Twenty Lacs only shall be paid in following manner:

a) Rs. 10,00,000/- (Ten Lacs only) shall be paid by Husband Tushar Agarwal by way of a demand draft payable at Guna Collectorate Branch (Branch Code 30391) in favour of Wife Swikrati Singh Agarwal at the time of filing of FIRST MOTION for dissolution of marriage by mutual consent before the Family Court at Jhansi; and;

b) Rs. 10, 00,000/- (Ten Lacs only) shall be paid by Husband Tushar Agarwal by way of a demand draft payable at Guna Collectorate Branch (Branch Code 30391) in favour of Wife Swikrati Singh Agarwal at the time of passing of DECREE for dissolution of marriage by mutual consent by the Family Court at Jhansi.

9. It is further agreed that First Motion for dissolution of marriage by Mutual Consent under Section 13B of Hindu Marriage Act shall be filed by both parties before Family Court at Jhansi within four weeks from the date of disposal of Transfer Petition (Civil) No. 1577 of 2012 and the Second Motion shall be filed immediately after Six Months, without any delay on any grounds whatsoever.

10. The child Anay Agarwal shall remain in the care and custody of his Mother Swikrati Singh Agarwal and Father Tushar Agarwal will have the visitation rights once in every 3 months for two days on a weekend i.e. Saturday & Sunday for 4 hours preferably at Jhansi in the supervision of the mother and as per the convenience of both the parties and also of child and with prior written intimation.

11. The date, time and place of the visit shall be mutually agreed by the parties. The place and time of meeting can be changed with mutual convenience of both parties. The

respondent Tushar Agarwal will inform the petitioner Swikrati Singh Agarwal through text message (Sms) and email, confirming the trip for visitation at least a month in advance of the scheduled date and the petitioner Swikrati Singh Agarwal shall respond to the same within 2 days of receiving the message confirming her and the child's availability. For this purpose, respective mobile numbers and email addresses of the parties are given as under:

Swikrati Singh Agarwal  
Email: swiksingh@gmail.com Mobile No. 9415858514  
Tushar Agarwal  
Email: tusharaga@yahoo.com Mobile No. 9810165205

Both the parties mutually undertake to voluntarily inform each other of any change in their mobile numbers or email ids mentioned above.

. 12. That it is agreed that the child Anay Agarwal will stay with the father Tushar Agarwal for first 10 days in Summer Vacation after he attains the age of 5 years. The schedule of the vacation will be sent to the father every year in the beginning of academic year by the mother through E-Mail. The father will ensure that he picks up the child from the mother from the place where the child goes to school and it is further agreed that father Tushar Agarwal will ensure that he personally hands over the child Anay Agarwal to the mother Swikrati Singh Agarwal at the place where the child goes to school.

. 13. It has further been agreed that neither party would have any claim whatsoever in future with regard to the movable and/or immovable assets against each other and/or his/her family members nor they will interfere in the lives of each other henceforth.

Hence forth, neither party would stake any claim on the movable or immovable, joint or ancestral, self acquired or HUF, properties of each other or their families (Father, mother, grandfather, grandmother etc). No case or litigation in this regard will be filed/made in any court of law by the petitioner Swikrati Singh Agarwal or respondent Tushar Agarwal or anybody else on their behalf.

. 14. The petitioner Swikrati Singh Agarwal further agrees that neither she nor anybody else on her or minor son Anay's behalf, shall file any case claiming maintenance or any share in property or any other sum from the respondent Tushar Agarwal or his family or H.U.F. U/s 125 of Cr. P.C., Section 24 of Hindu Marriage Act., Section 18 and 20 of Hindu Adoptions and maintenance Act, Domestic Violence Act or any other law applicable in India.

. 15. Further, the petitioner wife Swikrati Singh Agarwal agrees that she will take adequate care to maintain herself and minor son Anay Agarwal, with the substantial sum of Rs. 30 lakhs given to her as final settlement in this agreement, towards her and minor son Anay's all expenses (including but not limited to living expenses, education, medical treatment, travel and entertainment, housing and shelter, food and clothing, recreation, accident and theft, calamity, sickness, insurance claims etc. and all other needs whatsoever).

. 16. The welfare of the child shall be of paramount interest of both the parties at all times. If at any time, the petitioner Swikrati Singh Agarwal is unable to take care of the financial and/or other needs of the child Anay

Agarwal, she will hand over the custody of the child Anay Agarwal to the respondent Tushar Agarwal.

. 17. That both the parties are maintaining a Joint Saving Bank Account No. 31109695502 in the joint names along with father of respondent Tushar Agarwal in State Bank of India, Saket Branch, New Delhi and petitioner wife Swikrati has signed the necessary documents so that her name could be deleted from the said account or the account is closed.

. 18. By signing this Agreement the parties hereto solemnly state and affirm that they have no further claims or demands against each other and all the disputes and differences have been amicably settled by the parties hereto through the process of Mediation.

. 19 The parties undertake to abide by the terms and conditions set out in the above mentioned Agreement, which have been arrived without any coercion, duress or collusion and undertake not to raise any dispute whatsoever henceforth.

4. The parties have made a joint application (IA No. 3 of 2014) under Article 142 of the Constitution of India read with section 13B of the Hindu Marriage Act, 1955 (for short "1955 Act") praying therein that the marriage between the parties be dissolved by mutual consent and a decree of divorce be passed.

5. Although in paragraph 9 of the settlement, it is agreed between the parties that an application for dissolution of marriage by mutual consent shall be made at Family Court, Jhansi which is also repeated in para 11, but having regard to the statement recorded in para 7 of the settlement and the fact that parties have settled their disputes amicably, we are satisfied that this is a fit case where we should exercise our jurisdiction under Article 142 of the Constitution of India, dispense with the mandatory period provided under section 13B of 1955 Act and grant a decree of divorce by mutual consent.

6. We, accordingly, dissolve the marriage between the parties and grant decree of divorce by mutual consent. All pending proceedings (civil and criminal) between the parties stand terminated.

7. The undertakings given by the parties in the settlement are accepted.

8. Transfer Petitions and I.A. No. 3 of 2014 are disposed of accordingly. No costs.

.....J.  
( R.M. LODHA )

NEW DELHI;  
MARCH 14, 2014.

.....J.  
( S.A. BOBDE )

ITEM NO.51

COURT NO.2

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 (CIVIL.) NO(s). 1577 OF 2012

SWIKRATI SINGH AGARWAL

Petitioner(s)

VERSUS

TUSHAR AGARWAL

Respondent(s)

(With appln(s) for stay and office report )  
IA No. 3 (appln. for divorce by mutual consent)

WITH T.P.(C) NO. 422 of 2013  
(With appln. for stay and office report)

Date: 14/03/2014 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA  
HON'BLE MR. JUSTICE S.A. BOBDE

For Petitioner(s) Ms. Anjana Mathur Gupta, Adv.  
Ms. Kamakshi S. Mehlwal, Adv.

TP 422 Mr. Arvind Kumar Sharma, Adv.

For Respondent(s)  
TP 1577 Mr. Arvind Kumar Sharma, Adv.

TP 422 Ms. Anjana Mathur Gupta, Adv.  
Ms. Kamakshi S. Mehlwal, Adv.

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

Transfer Petitions and I.A. No. 3 of 2014 are disposed of  
in terms of signed order. No costs.

|(Pardeep Kumar)  
|AR-cum-PS

|(Renu Diwan)  
|Court Master

[SIGNED ORDER IS PLACED ON THE FILE]