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IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION(C) NO. 324 OF 2012  
(with I.A. No.4 of 2012)

Vijaykumari D. Damani ..Petitioner

versus

Darpan Damani ..Respondent

O R D E R

In this petition, prayer has been made for transfer of HMA Petition No. 254 of 2011 titled Darpan Damani v. Vijayakumari D. Damani, pending in the Court of Civil Judge (Senior Division), Thane, Mumbai (Maharashtra) to the Family Court at Bikaner (Rajasthan).

During the pendency of the transfer petition, the parties have amicably resolved their disputes and executed Settlement/Compromise Agreement dated 17.04.2012, copy of which has been placed on record as Annexure A-1 with I.A. No.4 of 2012. The agreed terms between the parties are as under:

The parties herein have amicably settled all their disputes, claims and differences of any nature whatsoever against each other and their family members permanently and agreed to invoke the jurisdiction of the Hon'ble Supreme Court under Article 142 of the Constitution to do complete justice to parties, inter

alia, by:

- i) Dissolving their marriage by a decree of divorce by mutual consent under Section 13(b) of the Hindu Marriage Act, 1955.
- ii) Dismissing all the complaints and petitions filed by the parties against each other and their family members to avoid all future litigations.

2. That the respondent has agreed to pay to the petitioner total sum of Rs.5,00,000/- (Rupees Five Lakhs only) by way of Demand Drafts in the name of VIJAYKUMARI. The respondent will pay Rs.5,00,000/- (Rupees five lakhs only) as agreed to by the petitioner in full and final settlement of her claim past, present and future, if any, without any pressure, coercion or force. She will have no claim or demand of any kind whatsoever against the respondent in future in consideration of the amount being paid by the respondent to the petitioner. The respondent will hand over the drafts of total sum of Rs.5,00,000/- (Rupees five lakhs only) to the petitioner or her lawyer towards the said total agreed amount. On the next date of hearing before the Hon'ble Supreme Court to dismiss all the complaints and petitions filed by the parties against each other and their family members and to put a quietus to all complaints/litigation between the parties in terms of this Compromise/Settlement and at the time of final decree being passed by the Hon'ble Supreme Court in terms of the

compromise settlement.

3. That in case the Hon'ble Supreme Court is not inclined to pass the decree under Article 142 of the Constitution of India then both the parties shall jointly file a petition for divorce by mutual consent before the Court of competent jurisdiction at Family Court at Bikaner (Rajasthan) under Section 13(b) of the Hindu Marriage Act, 1955 and the alimony as referred above shall be paid to the petitioner in the following manner:

An amount of Rs.2,50,000/- (Rupees Two lakh fifty thousand only) at the

time of filing of the petition for First Motion of mutual divorce under Section 13(b) of the Hindu Marriage Act.

An amount of Rs.2,50,000/- (rupees two lakh and fifty thousand only) shall be paid to the petitioner at the time of recording of the statement of second motion under Section 13 (b) of the Hindu Marriage Act, 1955.

4. On receipt of the aforesaid amount of Rs.5,00,000/- (Rupees five lakh only) and all the claims of the petitioner or her family members on account of stridhan, dowry, belongings, clothing articles, alimony, maintenance past, present or future,

and/or and other claims of any nature whatsoever, towards respondent and his family members shall stand settled in full and final and all the complaints and petitions filed by the parties against each other and their family members shall stand settled and withdrawn.

5. Both the parties agree and undertake that they have settled all their disputes and grievances against each other and against their family members amicably and they shall not file any proceedings, whether criminal or civil, against each other or their family members or stake any claim on the movable or immovable, joint or ancestral, self acquired or HUF properties of the either party or their family.

6. The parties agree and undertake that they all withdraw all allegations leveled against each other and that shall they abide by the mentioned terms of the present compromise deed in its true and spirit.

7. Parties agree and undertake that the present compromise has been entered into between the parties of their own free will and violation and without any force, pressure, coercion or undue influence.

The parties have also filed an application under Article 142 of the Constitution for grant of divorce by mutual consent. The application is duly supported by the affidavits of the parties.

The parties are present in person. They have stated

that due to incompatibility they have not been able to live together and have mutually agreed to dissolve their marriage.

In view of the above development, the case is disposed of in the following terms:

The Settlement Agreement (Annexure A-1) is taken on record. The same shall be read as part of this order.

The marriage between the parties is dissolved by grant of a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955 read with Article 142 of the Constitution.

The proceedings of the petition filed by the petitioner under Section 125 Cr.P.C., which is pending in the Court of Additional Chief Judicial Magistrate-III, Bikaner (Rajasthan) as also the proceedings arising out of FIR No.19/2011 filed by the petitioner at Woman Police Station, Bikaner (Rajasthan) which is pending in the Court of Munsif-cum-Judicial Magistrate-III are quashed.

.....J,  
[G.S. SINGHVI]

NEW DELHI;  
JULY 02, 2012

.....J.  
[SUDHANSU JYOTI MUKHOPADHAYA]

ITEM NO.61                                      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 (CIVIL.) NO(s). 324 OF 2012

VIJAYAKUMARI D. DAMANI

Petitioner(s)

VERSUS

DARPAN DAMANI

Respondent(s)

(With appln(s) for stay, correction of typographical error. and office report ))

Date: 02/07/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr.N.M. Popli, Adv.  
Ms. Ritu Rastogi, Adv.  
Ms. Anandita, Adv.  
Mrs.B.Sunita Rao, Adv. (Not present)

For Respondent(s) Mr. H.D. Thanvi, Adv.  
Mr. Sarad Kumar Singhania, 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.

|(Parveen Kr.Chawla)  
|Court Master  
|

|(Phoolan Wati Arora)  
|Court Master  
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[signed order is placed on the file]