

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). 541 OF 2013

SUNITA MANIKANTAN Petitioner(s)

VERSUS

L. MANIKANTAN Respondent(s)
(With appln(s) for stay and office report)

WITH T.P.(C) NO. 1188 of 2013
(With appln(s) for ex-parte stay and office report)

Date: 29/04/2014 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s)
Mr. P.N. Gupta,Adv.
Mr. Vinodh Kanna B., Adv.

For Respondent(s)
Mr. Vinodh Kanna B.,Adv.

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

The transfer petitions are disposed of in
terms of the signed order.

[Neeta] [Usha Sharma]
Sr. P.A. Court Master
(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

TRANSFER PETITION (CIVIL.) NO(s). 541 OF 2013

WITH

T.P.(C) NO. 1188 of 2013

SUNITA MANIKANTAN Petitioner(s)

VERSUS

L. MANIKANTAN Respondent(s)

O R D E R

Two transfer petitions have been filed, one by petitioner-Sunita Manikantan and another by respondent-L. Manikantan for transfer of cases filed by respective opposite parties from one Court to another Court.

This case involves a matrimonial dispute between the parties. The matter was taken up in Chamber and parties appeared in-person. They agreed for amicable settlement of their dispute.

Today a Joint Memorandum of Settlement has been filed relevant portion of which reads as follows:

"3. That the petitioner and respondent have been living separately for the last two and half years from 03/09/2011.

4. Due to irreconcilable differences the marriage has irretrievably broken down, and they have not been able to live together hence, now both the parties have decided to seek mutual divorce under the provisions of Section 13-B of the Hindu Marriage Act, 1955 on following terms and conditions which are as under:-

(1) The parties shall withdraw the respective cases filed by them against each other mentioned as under:-

2

(i) HMOP No. 1134 of 2012 filed by respondent husband against petitioner wife for divorce, pending in the Family Court at Coimbatore.

(ii) HMP No. A-120/2013 filed by petitioner wife against respondent husband for restitution of conjugal rights, pending in Family Court at Nagpur with all its connected applications including the claim for maintenance pendent-lite and legal expenses.

(iii) HMP No. C-255/2013 filed by petitioner wife against respondent husband for maintenance, pending in Family Court at Nagpur.

(iv) The respondent and his father withdraws and undertake not to prosecute the complaint filed by them before Human Rights Commission at New Delhi and Commissioner of Police, Nagpur, against the petitioner and her parents.

(2) The respondent husband shall return, the gold ornaments lying in Canara Bank locker, Sai Baba Colony, Coimbatore, as identified and verified by the parties personally on 03/04/2014 and other gold ornaments with the mother of the respondent husband as mentioned in List No.1 annexed herewith. The respondent husband shall also return silver utensils, gift materials, dress materials or other items which are in possession of the respondent husband belonging to the petitioner as per List No.2 annexed herewith.

(3) Simultaneously, the petitioner wife also agrees to return the Gold jewelries belonging to the respondent husband after due verification as listed in List No.3.

3

(4) That besides above, the respondent husband has agreed to pay to the petitioner wife a sum of Rs.20 Lakhs(Twenty Lakhs) as one time permanent alimony in full and final settlement against all her claims including maintenance, compensation for marriage expenses and litigation expenses. The said sum shall be paid by way of demand draft in the name of "Sunita Sundaram" payable at Nagpur, on the date of order passed by the Family Court, dissolving the marriage by decree of divorce between the parties.

(6) That the parties would request the Hon'ble Supreme Court to transfer the joint application under Section 13B being filed herein for mutual divorce to the Family Court, Coimbatore. The parties shall mutually exchange the gold and silver ornaments as per respective list one day before the day of hearing of the mutual divorce petition in presence of the Branch Manager of the Bank and Notary Public. The other items shall be mutually exchanged between the parties as per list, after the order passed by the Family Court dissolving the marriage by mutual consent on the same day or next day at Coimbatore.

(7) It is agreed that the parents of petitioner wife will receive the articles and mutually return the article at Coimbatore.

(8) That the parties have no further claim monetary or otherwise and both parties hereby withdraw each and every allegations made by the respective parties against each other in the cases filed in Hon'ble Courts. The parties to this Joint Application hereby affirm and declare that one and all the terms shall be strictly and faithfully complied.

(9) It is respectfully prayed that both the Transfer Petitions may please be disposed of in terms of the compromise set out in the present Joint Application.

4

I.A. No. 3 of 2014 has been filed under Section 13B of the Hindu Marriage Act read with Article 142 of the Constitution of India praying for dissolution of marriage with mutual consent. Another I.A. No. 4 of 2014 filed for waiving the statutory period of six months for grant of divorce by mutual consent under Section 13B(2) of Hindu Marriage Act, 1955, in view of the urgency shown therein. We find that there is a prayer in the petition having been given in the manner it should have been made in the petition under Section 13B but the same can be ignored in the interest of justice.

Having heard petitioner-Sunita Manikantan and respondent-L. Manikantan in-person in presence of their counsel and in view of Joint Memo of Settlement filed by them, we pass the following order:

(i) Record of HMOP No. 1134 of 2012 filed by respondent husband against petitioner wife for divorce, pending in the Family Court at Coimbatore is called for and is quashed.

(ii) Record of HMP No. A-120/2013 filed by petitioner wife against respondent husband for restitution of conjugal rights, pending in Family Court at Nagpur with all its connected applications including the claim for maintenance pendent-lite and legal expenses is called for and is quashed.

(iii) Record of HMP No. C-255/2013 filed by petitioner wife against respondent husband for maintenance,

pending in Family Court at Nagpur is called for and is quashed.

(iv) Record and proceedings pending before Human Rights Commission at New Delhi and Commissioner of Police, Nagpur, against the petitioner and her parents is called for and is quashed.

Exercising the power under Section 142 of the Constitution of India, we allow the prayer for dissolution of marriage i.e. I.A. No.3 and permit to waive statutory period of six months for the same

i.e. I.A. No. 4 of 2014. In view of the fact that they are living separately from more than 2 years, we dissolve the marriage between the parties and issue a decree of divorce by mutual consent with immediate effect.

Draft No. 506996 issued by Canara Bank in favour of petitioner-Sunita Manikantan for Rs.20Lakhs (Rupees Twenty Lakhs) dated 26th April, 2014 is being handed over by respondent-L. Manikantan to the petitioner-Sunita Manikantan as full and final settlement in terms of the agreement reached between the parties.

Parties are directed to adhere to the terms of the settlement and exchange the items as per the settlement as noted above and shown in the respective List Nos. 1,2 and 3 annexed with the terms of settlement preferably within eight weeks. The Branch Manager, Canara Bank, Sai Baba Colony, Coimbatore is directed to allow Mr. L.S. Lakshmannan and Dr. V. Lakshmanan parents of Mr. L. Manikantan to operate their joint locker to ensure that the terms of settlement is compiled in its letter and spirit.

The transfer petitions stand disposed of with aforesaid observations.

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

.....J.
(KURIAN JOSEPH)

NEW DELHI;
APRIL 29, 2014