

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).17173/2012

(From the judgement and order dated 03/11/2011 in MFA No.30742/2011 of The HIGH COURT OF KARNATAKA AT GULBARGA)

MADHAV Petitioner(s)

VERSUS

ASHWINI Respondent(s)
(With appln(s) for PLACING ADDL. FACTS AND DOCUMENTS ON
RECORD,modification of Court's Order and office report)

Date: 25/04/2014 This Petition was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE R.K. AGRAWAL

For Petitioner(s)
Mr. Shailesh Madiyal,Adv.

For Respondent(s)
Mr. Kashi Vishweshwar, Adv.
Ms. A. Sumathi,Adv.

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

Leave granted.

The appeal is allowed 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

CIVIL APPEAL NO. 4909 OF 2014
(Arising out of SLP(C)17173 of 2012)

MADHAV Appellant(s)

VERSUS

ASHWINI Respondent(s)

O R D E R

Leave granted.

This appeal was preferred by the appellant against

the order dated 3rd November, 2011 passed by the High Court of Karnataka, Bench at Gulbarga in MFA No. 30742 of 2011 (FC). By the impugned order the High Court allowed the appeal filed by the respondent and set aside the decree of divorce granted vide order dated 28th February, 2011 by the learned Judge, Family Court, Bijapur in M.C. No. 140 of 2009.

Having noticed that the dispute is between the husband and wife and this Court allowed the parties to settle the dispute. Now parties have filed joint Memorandum of Settlement.

Relevant portion of which reads as follows:

"2. The parties hereto have now agreed and fully and finally resolved their dispute on the following terms and conditions:

A. Immediately, on the disposal of the Special Leave Petition in terms of the present settlement, and not later than two weeks from the date of such disposal, the parties would present a petition for divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. The said petition would be moved before the Family Court at Bijapur.

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B. During the pendency of the said petition and not later than 30th June, 2014, the petitioner would give the respondent, by way of a demand draft drawn in her name, a sum of Rs.6,25,000/-. Prior to the recording of the 'second motion' in terms of Section 13B (2), the Petitioner shall handover to the Respondent another demand draft of Rs.1,75,000/- drawn in the name of the Respondent. The Petitioner shall also, simultaneously, handover a Fixed Deposit Receipt for a sum of Rs.4,50,000/- in the joint names of the (i) Respondent, and the (ii) daughter of the Petitioner and the Respondent, i.e., Chinmayee Madhav Kulkarni. This amount of Rs.4,50,000/- shall not be spent by the Respondent for anything other than the educational requirements of the said Chinmayee Madhav Kulkarni.

C. At any time before 30.06.2014 the Petitioner shall execute a gift deed in respect of his share of 20 guntas in the ancestral property bearing filed Survey No. 275/1 at post Sarwad Hobli Babaleswar Tq; Dist; Bijapur, Pincode-586125, in favour of his daughter Chinmayee Madhav Kulkarni. The property so gifted shall be demarcated at the time of executing the gift deed and shall have uninterrupted ingress and egress. The

gift as above shall bind all other persons who, as on the date of execution of the gift deed have any coparcenary interest over the property being gifted. D. This settlement shall be the full and final settlement of the claims/rights of the Respondent and daughter of the Petitioner and the Respondent - that is Chinmayee Madhav Kulkarni, against the Petitioner and his properties [including ancestral properties].

E. The parties shall, immediately at the end of six months from the date of moving the Petition under Section 13B(1) move the petition under Section 13B(2) and the parties shall cooperate with each other to obtain a decree of divorce declaring their marriage to be dissolved with effect from the date of the decree.

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F. The daughter of the parties, Chinmayee Madhav Kulkarni, shall remain with the Respondent till she attains the age of 18 years. However, the Petitioner shall have visitation rights, to visit his daughter twice a month during Saturday and Sunday at the house of the Respondent or at any other place agreed by both Petitioner and respondent. This aspect would also be made clear in the petition moved by the parties under Section 13B."

In view of the joint memo of settlement filed by the parties, we set aside the impugned order dated 3rd November, 2011 passed by the High Court of Karnataka, Bench at Gulbarga in MFA No. 30742 of 2011 (FC) and order dated 28th February, 2011 passed by the learned Judge, Family Court, Bijapur in M.C. No. 140 of 2009 and dispose of the appeal in terms of the settlement arrived between the parties.

Parties are expected to act upon in terms of settlement. It should be treated as direction of the Court.

The appeal is allowed.

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

.....J.
(R.K. AGRAWAL)