

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO. 943 OF 2012

SHRUTI SARAH KURIEN

Petitioner(s)

VERSUS

NIKHIL SUBHASH KANETKAR

Respondent(s)

O R D E R

This is wife's petition seeking transfer of Divorce Petition bearing P.A. No. 489 of 2012 titled "Nikhil Subhash Kanetkar Vs. Shruti Sarah Kurien" from the Family Court at Pune, Maharashtra to the Family Court, City Civil Courts, Hyderabad, Andhra Pradesh.

2. Notice of the Transfer Petition has been served on the respondent. He has filed counter affidavit in opposition to the Transfer Petition.

3. As a matter of fact, by order February 18, 2013, the matter was referred to the Supreme Court Mediation Centre for resolution of the matrimonial disputes between the parties through the process of mediation.

4. Pursuant thereto, the Centre appointed Ms. Anuradha Rustagi, Advocate as mediator and with her efforts, the parties have been able to settle their disputes amicably. The settlement has been reduced into writing. The relevant clauses of the settlement read as under :-

4. That the Respondent/husband has agreed to withdraw Divorce Petition U/s 27(1)(d) of the Special Marriage Act bearing P.A. No. 489/2012 pending before family Court, Pune within two weeks from the disposal of the present Transfer Petition.

5. Both the parties undertake that henceforth they would not file any criminal complaint or any other case against each other or their family members with regard to the present matrimonial alliance. Both the parties also undertakes to withdraw any other pending cases, which have been filed against each other and/or their respective families. The parties also submit that apart from the divorce petition, of any nature is pending in connection with the matrimonial disputes between the parties.

6. That there is a Flat No. C-705, Beverly Hills Society, Baner, Pune which is under Joint Ownership of the parties. On this flat there is a loan through Bank of Baroda, S.B. Road, Branch, Pune. As on 12.3.2013, there is Loan of 29,16,446/- . The parties have agreed that this flat shall be sold with the mutual understanding of each other. Either of the parties who gets a buyer will inform to the other party within 24 hours thereof by both telephone and Email. The parties agree that (unless modified in writing mutually), the flat in question will not be sold for less than Rupees Ninety Five lakhs. The Sale proceeds shall be divided in the ratio of 60% in favour of the Transfer Petitioner and 40% in share of the transfer respondent. Once the amount is so divided, the Laon

amount (as it stands on the date of repayment) shall be paid equally. Till such time as the flat is disposed of, the loan amount (E.M.I.) shall be continued to be paid in equal share. The brokerage and incidental expenses, if any shall be shared in equal division. The Petitioner agrees that till the registration of the Sale Deed of the Joint Flat mentioned hereinabove, the respondent shall have the authority to carry out all the steps required for the sale under information to the Petitioner which information shall be given upon happening of every step towards finalization of sale.

7. That the issue as regards payment of 2000 USD has been settled and the Petitioner has been paid the Indian equivalent for a sum of Rupees One Lac Ten Thousand Only vide Cheque dated 14.3.2013 Numbered 000017 by way of a cheque drawn on Bank of Baroda, Senapati Bapat Road, Pune Branch. That parties have agreed that the Petitioner shall also receive a sum of Rupees Five lakhs towards Full and Final settlement of all her claims (Present and Future) which money shall be paid by way of demand draft within Fourty Eight Hours of receipt of copy of the decree of divorce. To secure this sum of money a post dated cheque of 1.12.2013 is being handed over today which cheque shall be returned forthwith on the receipt of the Demand Draft. If for any reason, the divorce is not granted, the cheque Number 000018 dated 1.12.2013 drawn on Bank of Baroda, Senapati Bapat Road, Pune Branch shall not be encashed and no proceedings in relation to that cheque will be initiated by the Petitioner. For any reason attributable to the Petitioner, if the execution of this understanding is not completed, the amount of Rs. One Lakh Ten Thousand Rupees will be returned within 48 hours of demand failing which it shall carry interest of 12% per year. The petitioner undertakes not to claim any further amount towards alimony other than the amount mentioned above.

8. The Petitioner, Ms. Shruti Sarah Kurien and Respondent, Mr. Nikhil Subhash Kanetkar shall jointly pray for decree of divorce before this Hon'ble Court invoking the inherent power under Article 142 of the Constitution of India. In case this Hon'ble Court declines to grant decree of divorce as prayed for, then in the alternative, the parties shall file an appropriate application before the competent court of law at Hyderabad (A.P.).

9. By signing this Agreement the parties hereto state 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.

10. The parties undertake before this Hon'ble Court 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.

11. That the parties have not further pending issues/disputes between each other and all the disputes stand settled."

5. Above settlement has been signed by the parties in the

presence of their relatives and their respective advocates and so also the mediator.

6. An application being Interlocutory Application No. 2 of 2013 has been made jointly by the parties praying for decree of divorce from this Court by invoking Article 142 of the Constitution of India. The decree of divorce is sought under the Special Marriage Act, 1954.

7. Petitioner - Shruti Sarah Kurien and respondent - Nikhil Subhash Kanetkar are present before us. Both of them told us that the above settlement has been arrived at and the joint application for a decree of divorce has been made after lot of deliberation and of their own free will and without any influence or pressure from anyone.

8. Having regard to above, we are satisfied that the settlement entered into between the parties on March 14, 2013 may be accepted and so also the prayer made by them jointly in their application for a decree of divorce in exercise of our powers under Article 142 of the Constitution of India.

9. We, accordingly, grant the decree of divorce by mutual consent to both the parties. Their undertakings given in the settlement dated March 14, 2013 are accepted. Accordingly, the marriage between the petitioner and the respondent solemnized on August 27, 2006 is dissolved.

10. In view of above, Divorce Petition bearing P.A. No. 489 of 2012 pending before the Family Court at Pune, Maharashtra shall stand withdrawn.

11. The above terms of the settlement dated March 14, 2013 shall form part of the decree.

12. Transfer Petition and Interlocutory Application No. 2 of 2013 stand disposed of accordingly.

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

NEW DELHI; .....J.  
MAY 10, 2013 ( KURIAN JOSEPH )

ITEM NO.58 COURT NO.4 SECTION XVIA

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). 943 OF 2012

SHRUTI SARAH KURIEN Petitioner(s)

VERSUS

NIKHIL SUBHASH KANETKAR Respondent(s)

(With appln(s) for stay and joint application for decree of divorce by mutual consent and office report )

Date: 10/05/2013 This Petition was called on for hearing today.

CORAM :  
HON'BLE MR. JUSTICE R.M. LODHA  
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s)  
Mrs. D. Bharathi Reddy,Adv.

For Respondent(s)                    Mr. Nikhil Goel, Adv.  
   Mr. Marsook Bafaki, Adv.  
   Mr. Shivraj Gaonkar, Adv.

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

Transfer Petition and Interlocutory Application No. 2 of  
2013 stand disposed of in terms of the signed order.

(Rajesh Dham)		(Renu Diwan)	
Court Master		Court Master	

(signed order is placed on the file)