

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). 940 OF 2009

JAYASMITA PAUL @ DEB Petitioner(s)

VERSUS

SADHAN BIJOY DEB Respondent(s)

(With appln(s) for directions, stay and office report)
(For final disposal)

Date: 05/07/2010 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Mr. Rauf Rahim,Adv.

For Respondent(s) Mr. Vishwajit Singh,Adv.
Mr. Siddharth Sengar, Adv.
Mr. Abhindra Maheshwari, Adv.

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

Transfer petition is disposed of in terms of the
signed order.

(Ravi P. Verma) (M.S. Negi)
Court Master Court Master
[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION(C) NO. 940 OF 2009

JAYASMITA PAUL @ DEBPETITIONER

Versus

SADHAN BIJOY DEBRESPONDENT

O R D E R

This petition is filed by the wife, for transfer of
Petition No.1784 of 2009 on the file of the Family Court,
Bandra, Mumbai filed by the respondent-husband against the
petitioner for divorce under Section 27(b) and (d) of
Special Marriage Act, 1954 and for custody of the minor
child.

2. The matter was referred to the Supreme Court
Mediation Centre on 11.12.2009. After negotiations, the
parties have entered into a settlement before the mediators
on 26.3.2010 and the Mediation Settlement Report signed by

the parties has been placed before us by the Supreme Court Mediation Centre. The terms agreed are, in brief, as follows:

(a) The parties will seek divorce by consent;

(b) The petitioner-wife will not seek any alimony for herself;

(c) The respondent-husband shall pay Rs.5,00,000/- (rupees five lakhs only) for maintenance of the child Aryaman in addition to the LIC policy for Rs.1,00,000/-; The sum of Rs.5,00,000/- shall be kept

.....2.

- 2 -

in fixed deposit until the child attains majority. The mother will be at liberty to draw the interest thereon for the purpose of maintenance and education of the minor.

(d) The respondent-husband will also open a bank account in the name of the minor child and deposit funds, as he deems fit, from time to time for the maintenance, care and education of the child;

(e) If the petitioner remarries and the respondent does not remarry, then the custody of the child will be transferred to the respondent-husband;

(f) The respondent will be entitled to visitation rights once a year (on a Sunday or a public holiday) as per child's convenience at Kolkata. On that day, the respondent will be entitled to take the child out at 8 a.m. and hand over the child back to the petitioner at around 7.30 p.m.. The respondent will also have the option to visit the child and have the child with him for a period of three days during summer/winter/Durga Puja holidays. The visits will be after prior information by the respondent and confirmation by the petitioner.

(g) The parties shall move a petition for divorce by mutual consent either before the Supreme Court under Article 142 of the Constitution of India, or file a petition under Section 28 of Special Marriage Act, 1954 for divorce by mutual consent before the competent Court;

.....3.

- 3 -

3. When the matter came up today, both counsel confirmed that parties have reached a settlement in mediation as aforesaid. As a consequence, it follows that the respondent-husband has to withdraw the petition for divorce and parties will have to file a petition for divorce by mutual consent.

4. We, accordingly, dispose of the petition as follows:

(a) The respondent-husband shall withdraw the divorce petition No.A-1784 of 2009 on the file of 3rd Family Court,

Bandra, Mumbai, without any delay;

(b) We consider that the request for grant of a decree by mutual consent under Article 142 is not proper. It will be appropriate for the parties to file a joint petition under Section 28 of the Special Marriage Act, 1954 before the competent court. The parties agree to file such joint petition before the Family Court, Bandra, Mumbai within four weeks from today.

(c) The parties shall abide by the terms agreed as aforesaid;

(d) The respondent-husband shall pay to the petitioner-wife for travel and stay of petitioner-wife at Mumbai in connection with the petition for divorce by mutual consent, at the rate of Rs.15,000/- per visit.

5. In view of the above, the prayer for transfer of the petition does not survive. The petition is disposed of, accordingly.

.....J.
(R.V. RAVEENDRAN)

New Delhi;J.
July 5, 2010. (H.L. GOKHALE)