

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
TRANSFER PETITION (CIVIL) NO. 144 OF 2021

DR. INA JAIN ... Petitioner(s)

VERSUS

DR. DEEPAK JAIN ... Respondent(s)

O R D E R

This is a petition filed by the wife seeking transfer of divorce proceedings pending on the file of Family Court, Ghaziabad, Uttar Pradesh to the Family Court, Hyderabad.

The parties were referred to the Supreme Court Mediation Centre.

Before the Mediation Centre, the parties have arrived at a settlement.

The Settlement Agreement reads as follows :-

"SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between Dr. Ina Jain, W/o Dr. Deepak Jain, D/o Mr. S, P. Jain, R/o, Villa No. 194, Gardenia Grove Villas, Srinagar Village, Maheshwaram (M), Ranga Reddy Distt., Hyderabad, Telangana - 501359 (hereinafter called the First Party, which expression shall mean and include all her heirs, successors, representatives etc.).

And

Dr. Deepak Jain, S/o, Late Sh. J, L. Jain, R/o, B/001, Platinum Heights, Ramprastha Greens, Vaishali, Ghaziabad, Uttar Pradesh- 201010

(hereinafter called the Second Party, which expressions shall mean and include all his heirs, successors, representatives etc.).

The First and Second Party shall be collectively referred to as Parties;

WHEREAS the marriage between the Petitioner (First Party) and Respondent (Second Party) was solemnized as per Hindu rites and customs at Lucknow, Uttar Pradesh, on 28.12.1986;

AND WHEREAS out of their wedlock the parties have a son aged about 33 years, and a daughter aged about 27 years, (both the son and the daughter are well settled in U.S.A.);

AND WHEREAS irreconcilable disputes arose between the parties, and both the First Party and the Second Party have been living separately since, 2015;

AND WHEREAS the disputes and differences between the parties led to various litigations which are as under:

- (i) The First Party in the year 2017 filed a petition for divorce being HMA No. 29/2017 before the 1d. Family Court, Karkardooma, Delhi, which was, however, withdrawn by the First Party in the Year 2018.
- (ii) The Second Party filed Petition under section 9 of the Hindu Marriage Act, being HMA Petition No.28/2017 for restitution of conjugal rights which was, however, dismissed vide order dated 09.08.2018 in view of the divorce petition filed by the First Party.
- (iii) The Second Party, thereafter filed divorce petition being H.M.A. SN No. 614/2020 before 1d. Family Court, Ghaziabad, Uttar Pradesh, titled as Dr. Deepak Jain Vs. Dr. Ina Jain, which is pending before the said family court.

AND WHEREAS the First Party filed Transfer Petition (C) No. 144/2021 before the Hon'ble Supreme Court of India for transfer of the divorce petition H.M.A. SN No.614/2020 from the 1d Family Court, Ghaziabad, Uttar Pradesh to 1d. Family Court Kukatpally, Prashanth Nagar, Hyderabad, Telangana;

AND WHEREAS the Hon'ble Supreme Court (Hon'ble Mr. Justice V. Ramasubramanian) vide order dated 15.04.2021 passed in the Transfer Petition (C) No. 144 of 2021, was pleased to refer the matter to the Supreme Court Mediation Centre for exploring the possibilities of amicable settlement of all disputes amongst the parties;

AND WHEREAS pursuant to the said order of the Hon'ble Supreme Court dated 15.04.2021, the matter was assigned to Sunil Kumar Verma (Mediator), by the Supreme Court Mediation Centre vide letter dated 07.05.2021;

AND WHEREAS Comprehensive mediation sessions were held with the parties separately and jointly along with their counsels on 10.05.2021, 18.05.2021, 20.05.2021 and 28.05.2021 by Video Conferencing mode arranged by the Supreme Court Mediation Centre;

NOW WHEREAS both the parties (the petitioner/wife and the respondent/husband) voluntarily, on their own free will and volition and without any force or coercion have amicably resolved to settle all their disputes and differences, in the presence of the Mediator and their respective counsels, on the following terms and conditions:-

1. That both the parties (the petitioner/wife and the respondent/husband) hereto confirm and declare that they have, voluntarily and of their own free will and volition decided not to live together as husband and wife.
2. That the parties have mutually agreed that since there seems no possibility of them joining back as husband and wife in future and it will be in the complete interest of the parties to dissolve their relationship/marriage at the earliest to bring peace and harmony in their life, they have agreed to make a joint prayer to the Hon'ble Supreme Court of India to dispose of the Transfer petition (C) No. 144 of 2021 and grant decree of divorce by mutual consent by exercising its inherent powers under Article 142 of the Constitution of India.
3. That the Second Party (husband) has agreed to give the full and final settlement amount of Rs. 2,25,00,000/- (Rupees Two Crore and Twenty Five Lakhs Only) to the First Party (wife)

towards all her claim (past, present and future) for maintenance, alimony, residence etc. by way of D.D./Cheque issued from the Second Party's Personal Bank Accounts. The said amount of Rs. 2,25,00,000/- (Rupees Two Crore and Twenty Five Lakhs Only) is over and above the Flats (one Flat in ATS Advantage, Indirapuram, Flat bearing No. 4/22 and 7/104 at Vaishali) which have been given to the First Party by the Second Party as per their mutual understanding after their separation in the year 2015.

4. That the First Party will transfer 50% of her share in the land bearing plot No. 4/130 at Vaishali, Ghaziabad, in favour of the Second Party or its assignee, which property was purchased in the joint name of the First and Second Party vide Sale Deed dated 20.01.2002, upon which the Second Party is running a Hospital, named 'Paras Hospital' as a Proprietor. The First Party, her heir, successor or representative will not claim any right or title in the goodwill of the hospital, hospital buildings, equipment etc. relating to the said Paras Hospital.
5. That the second party has agreed and resolved to indemnify the First Party from any liability, existing or future, in respect of the said Paras Hospital.
6. That both the parties have further agreed and resolved not to initiate any further civil/criminal or other proceedings before any court/forum or authority after the execution of this settlement agreement.
7. That both the parties have agreed and resolved to move a joint application before the Hon'ble Supreme Court immediately after execution of this Settlement Agreement (After both the parties, and their Counsels signing the Agreement) for listing and disposal of the matter in terms of this settlement agreement.
8. That in view of the exceptional circumstance of the case and the prevalent Covid-19 Pandemic, both the parties have agreed to request the Hon'ble Supreme Court of India to invoke Article 142 of the Constitution of India to dispose of the divorce Petition

H.M.A. SN No. 614/2010 and grant decree of divorce by mutual consent under section 13 B of Hindu Marriage Act, 1955.

9. That both the parties have agreed and resolved that in case the Hon'ble Supreme Court of India is not inclined to invoke Article 142 of the Constitution of India to dispose of the divorce Petition H.M.A. SN No. 614/2010 and grant decree of divorce by mutual consent, both the parties will take steps in the following manner to give effect to the present settlement agreement.

(i) That the Second Party will withdraw the divorce Petition, H.M.A. No. 614/2020 filed before the Id. Family Court, Ghaziabad, U.P. titled Dr. Deepak Jain Vs. Dr. Ina Jain within one week from the date of order of the Hon'ble Supreme disposing of the Transfer Petition (C) No. 144/2021 in terms of this Settlement Agreement.

(ii) That both the parties, within one month of the order of the Hon'ble Supreme Court disposing of the above said transfer petition, will move application before the Id. Trial Court, the Family Court, Ghaziabad, Uttar Pradesh, under section 13 B of the Hindu Marriage Act, 1955 for grant of divorce by mutual consent.

(iii) That, in view of the marriage irretrievably broken, both the parties would request the Hon'ble Supreme Court to grant them permission to move both the first and second motion, in their petition for mutual divorce under section 13 B of the Hindu Marriage Act, 1955, together or without any delay between the first and the second motion, directing the Id. Family Court at Ghaziabad, Uttar Pradesh, to dispose of the same expeditiously.

10. That the Second Party (husband) has agreed to pay the settled amount of Rs. 2,25,00,000/- (Two Crore Twenty Five Lakhs Rupees) in three instalments. The Second Party will pay the First instalment of Rs. 25,00,000/- (Rupees Twenty Five lakhs) to the First Party within 5

days of the signing of the Settlement Agreement by both the parties and their counsels.

11. That in case the Hon'ble Supreme Court disposes of the divorce petition of the second party by granting divorce by mutual consent invoking Article 142 of the Constitution of India, the Second Party will pay the second instalment of Rs-1.00,00,000/- (Rupees One Crore) within fifteen days of such an order passed by the Hon'ble Supreme Court, and the third instalment of Rs.1,00,00,000/- (Rupees One Crore) will be paid by the Second Party to the First Party within one month thereafter i.e. within one month of the payment of the Second instalment.
12. That in case the Hon'ble Supreme Court is not inclined to invoke Article 142 of the Constitution of India to grant divorce by mutual consent, the Second Party will pay the second instalment of Rs. 1,00,00,000/- (Rupees One Crore) within fifteen days of the order passed by the Hon'ble Supreme Court disposing of the Transfer Petition (C) No.144/2021 in terms of the settlement agreement, and the third instalment of Rs. 1,00,00,000/- (Rupees One Crore) on the day of moving the Second motion for grant of divorce by mutual consent under section 13 B of the Hindu Marriage Act
13. That the DD/Cheques towards payment of first and second instalments shall be deposited by the second party in the Savings Bank Account of the First Party (SB A/c No.50100354442748, HDFC Bank Ltd., Branch-Windsor Park, 5 Vaibhav Khand, Indirapuram, Ghaziabad, U.P., IFSC-HDFC0000590) as per the timeline agreed upon by the parties in this settlement Agreement. However, the DD/Cheque for the third instalment shall be handed over to the First Party by the Second Party as the First Party shall be in NCR of Delhi on such day for the purpose of effecting transfer of her 50% share in the land of the said Paras Hospital in favour of the Second Party as agreed between the parties in Clause 4 of the Settlement Agreement.

14. That the First Party will transfer 50 % of her share in the land bearing plot No. 4/130 at Vaishali, Ghaziabad, in favour of the Second Party or its assignee as described in clause 4 of this Agreement, on the 45th day (if the 45th day is a holiday, then on the very next working day) of the order passed by the Hon'ble Supreme Court dissolving the marriage of the parties invoking Article 142 of the Constitution or on the day of the payment of the third instalment whichever is earlier, however, in the case of the Hon'ble Supreme Court not being inclined to invoke Article 142 of the Constitution to grant decree of divorce by mutual consent, then on the date of moving the second motion before the Id. Trial Court for grant of divorce by mutual consent.
15. That both the parties undertake that henceforth, they would not interfere in the life of each other by any means and further undertake that henceforth they shall not file any proceedings, civil and/or criminal or case against each other and/or against the family members, relatives of either party; and the parties undertake to abide by the terms of the present settlement agreement.
16. That in terms of the present Settlement Agreement, the parties have settled all their claims in respect of all the properties movable or immovable, and neither of the parties shall have any claim, right, title or interest over any property, movable or immovable, of any nature against each other, whether self-acquired, ancestral or otherwise and relinquish all their claims, rights, title or interest, if any, against each other and, they shall have no other or further claim or demand against each other.
17. That both the parties shall extend full cooperation to each other in execution of all the terms and conditions of this settlement agreement and shall maintain peace and harmony between them.
18. That the parties shall also make a joint prayer that the present settlement agreement be made a part of the order passed by the Hon'ble Supreme Court of India.

19. That both the parties are fully committed to honour each and every term and condition of this agreement and any breach of any obligation herein contained or violation of any terms of settlement herein contained by any party hereto, shall be liable for action by the Hon'ble Supreme Court against the party at fault and the party aggrieved shall have the right to remedy the breach by approaching the Hon'ble Supreme Court for enforcing the terms of settlement.
20. That the parties have agreed to undertake before the Hon'ble Supreme Court of India that they shall abide by all the terms and conditions set out in the present settlement agreement, which have been arrived at without any coercion, duress or collusion and undertake not to raise any dispute whatsoever henceforth and in case any party fails to abide by the terms and conditions mentioned hereinabove, the other party may initiate contempt proceedings before the Hon'ble Supreme Court of India.
21. That the parties have read and understood each and every word of terms and conditions of the present settlement agreement and have agreed, accepted and consented thereafter to present/send/furnish the hard copy of the same to the Mediation Centre of the Hon'ble Supreme Court of India or send it in PDF form at the official email of the Centre, as this settlement has been reached after participation/interactions/deliberations done in presence of respective counsels in the mediation sessions conducted by way of video conferencing, due to restraint of physical participation of all during Covid times.
22. That the parties are accordingly signing this settlement agreement, to authenticate their will to comply the same as agreed above."

The learned counsel appearing for the parties point out that there is a typographical error in the Settlement Agreement and it is this. Wherever there is a reference to the obligation on the

part of the wife, to execute necessary documents for the transfer of 50% of the share that she has in the properties, it is mentioned in the Agreement as "50% of her share".

The parties are also connected through video-conferencing and they agree that this should stand corrected to mean "the transfer of 50% of the property". The parties also confirm the terms of the settlement.

Therefore, the Transfer Petition shall stand disposed of in term of the Settlement Agreement.

There shall be a decree of dissolution of the marriage that was solemnized between the parties on 28-12-1986 at Lucknow, Uttar Pradesh. This order is passed in exercise of the power available under Article 142 of the Constitution of India.

The parties shall have no further or other obligations other than those indicated in the Settlement Agreement.

Wherever, the words "50% of her share" appear in the Settlement Agreement, they shall be read as "50% of the property".

....., J.
(V. Ramasubramanian)

New Delhi;
August 10, 2021.

