

A PRAVEEN SINGH RAMAKANT BHADAURIYA

v.

NEELAM PRAVEEN SINGH BHADAURIYA

(Civil Appeal No. 4541 of 2019)

B MAY 1, 2019

[R. BANUMATHI AND S. ABDUL NAZEER, JJ.]

Constitution of India: Art. 142 – Invocation of power under – In the instant case, divorce petition was pending between the parties and they were living separately – Parties resolved to amicably settle the matter and filed separate application agreeing for dissolution of marriage by mutual consent – In the facts and circumstances of the case, by invoking power under Art. 142, the marriage of the appellant and respondent is dissolved – Appeal disposed of – Family law – Divorce – Compromise/Settlement.

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4541 of 2019.

From the Judgment and Order dated 29.05.2013 of the High Court of Allahabad in Second Appeal No. 641 of 2013.

E Ashok Mathur, Adv. for the Appellant.

Mr. Rajesh Aggarwal, Ms. Mridul Aggarwal, Advs. for the Respondent.

The Judgment of the Court was delivered by

F **R. BANUMATHI, J.** 1. Leave granted.

2. Being aggrieved by the judgment and order dated 29.05.2013 passed by the High Court of Allahabad in Second Appeal No. 641 of 2013, in which the High Court has dismissed the appeal preferred by the appellant and thereby declining to dissolve the marriage.

G 3. The appellant and the respondent were married on 07.05.1998. A girl child was born out of the said wedlock and she is now aged about 18 years. Due to strained relationship, the parties are living separately. The appellant-husband has filed a suit for dissolution of marriage before the Family Court, Mumbai, which was subsequently transferred to Etawah District Court, Uttar Pradesh. The Trial Court dismissed the divorce

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petition filed by the appellant by judgment dated 09.11.2009. The appeal preferred by the appellant was also dismissed by the District Court by the judgment dated 29.11.2012. The High Court also dismissed the second appeal preferred by the appellant-husband. Being aggrieved, the appellant is before us.

4. We have heard Mr. Ashok Mathur, learned counsel appearing on behalf of the appellant as well as Mr. Rajesh Aggarwal, learned counsel appearing on behalf of the respondent.

5. When the matter was pending before this Court, the parties were referred to mediation and the parties have amicably settled the matter. The parties have also filed a separate application agreeing for dissolution of marriage by mutual consent invoking the powers under Article 142 of Constitution of India. As per the settlement between the parties, the appellant-husband has agreed to pay Rs.10,00,000/- (Rupees ten lakhs) to the respondent-wife (paid today by way of post-dated cheque No. 000278 drawn in favour of respondent-wife viz. Neelam Singh dated 11th May, 2019 drawn on Bank of Baroda) in full and final settlement of her claims towards monthly maintenance past, present and future and in full quit of all other claims. Additionally, the appellant has agreed to pay Rs.3,00,000/- by way of FDR in the name of the daughter payable within a period of three months from today. He has also agreed to contribute another one lakh at the time of solemnization of the marriage of the daughter. The parties have also agreed that all the pending cases between the parties shall be withdrawn or they will agree for quashing the respective cases.

6. Since the parties have amicably settled the matter, considering the facts and circumstances of the case, in exercise of our power under Article 142 of the Constitution of India, the marriage of the appellant and the respondent solemnized on 07.05.1998 is dissolved. The following terms of Compromise between the parties shall form part of this judgment which reads as under:

“4. Both the parties hereto, had earlier arrived at an amicable mutual settlement on the following terms and conditions for divorce by mutual consent, before the mediation centre.

5. It was agreed between the parties that they will pray for withdrawing/quashing before the Hon’ble Court/s to dispose of/ quash the following pending cases, as mutually settled:

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 - i. In the Court of CJM, Etawah, UP Case No. 1537/2009 Neelam vs. Pravin (under Section 125 CrPC) including its appeal before Allahabad High Court.
 - ii. In the Court of ACJM, Etawah, Case No. 186 of 2009 Neelam Vs. Pravin (under Domestic Violence Act)
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 - iii. Before Special Anti Dakait Magistrate Case No. 323 of 2006 Praveen Vs. Ramender.
 - iv. Case under Section 396 IPC pending before Hon'ble High Court of Allahabad, Uttar Pradesh.
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 - v. Before CJM Etawah Case No. 65 of 2002 Neelam vs. Pravin & others under Section 498A IPC.
 - vi. Before ACJM , Etawah, Case No. 506 of 2002 Neelam Vs. Pravin & Others under Section 406 IPC
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 - vii. Any other case amongst the parties before any other courts, if any.
- 6. The parties shall pray before the Hon'ble Court for the passing of the decree of divorce by mutual consent invoking the powers under Article 142 of the Constitution of India.
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 - 7. The petitioner-husband had agreed to pay Rs.10,00,000/- (Rupees Ten Lacs only) to the respondent-wife viz. full and final settlement of all her claims towards monthly maintenance past present and future, stridhan, belongings and any other claim whatsoever.
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 - 8. The applicant wife desired a further sum for the marriage and educational expenses for her daughter to be deposited in the shape of FDR in the name of daughter "Janhavi Singh". When the said aspect was brought to the knowledge of this Hon'ble Court in last 2 hearings, it was orally agreed upon by the opposite side; and the matter was adjourned for filing the necessary documents.
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 - 8A. One FDR of Rs.3,00,000/- (Rupees three lakhs) shall be paid to daughter within three months and Rs.1,00,000/- (Rupees one lakh) shall be paid at the time of marriage of the daughter".
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7. So ar as other cases are concerned, as and when the application is made before the concerned Court, the concerned Court shall pass the appropriate orders in view of the settlement arrived at between the parties. A

8. In case of non-compliance of the terms of compromise, the parties would be liable for contempt of this Court in addition to other remedies available under law. B

9. The Registry shall draft the decree accordingly.

10. The appeal is disposed of in above terms.

Devika Gujral

Appeal disposed of.