

IN THE SUPREME COURT OF INDIA
ORIGINAL JURISDICTION
TRANSFER PETITION (C) NO. 624 OF 2008

Mitali

..Appellant

Versus

Dababrata

..Respondent

J U D G M E N T

Dr. ARIJIT PASAYAT, J.

1. This Transfer Petition was filed by the wife seeking transfer of HMA No.80 of 2008 filed under Section 13(1)(a) of the Hindu Marriage Act, 1955 (in short the 'Act') pending in the Court of learned Additional District Judge, Tis Hazari Court, Delhi, to any Court of Competent Jurisdiction of Nagpur. Pursuant to the directions given on 10.11.2008 the matter was listed at the Supreme Court Lok Adalat on 6th December, 2008. The parties were directed to appear before the Delhi High Court Mediation Center on 19.1.2009. The parties had agreed that Ms.Veena Ralli and Mr. Mohit Gupta, Advocates would act as Amicus Curiae in the matter of Mediation and Conciliation proceedings. The petitioner had filed an application for maintenance under Section 18 of the Hindu Adoption and Maintenance Act, 1959 and had obtained an ex parte decree of Family Court, Nagpur. As noted above, the respondent filed a petition for divorce.

2. We, therefore, allow the parties arrive at the following settlement as agreed to by them:

(a) It has been agreed between the parties that they will file a joint petition U/s 13 (B) of the Act praying grant of a decree of divorce on the ground of mutual consent at Delhi.

(b) It has been agreed between the parties that the husband shall pay a sum of Rs.7,00,000/- (Rupees Seven lakhs only) to the wife towards all her claims i.e. alimony, stridhan, maintenance (of her own as well as of their son Tushar) etc. and on receiving the said amount the wife shall have no claims whatsoever left against the husband.

(c) It has also been agreed between the parties that the said amount of Rs.7,00,000/- (Rupees Seven lakhs only) shall be paid by the husband and received by the wife in two (2) installments through Bank drafts. The first installment of Rs.3,00,000/- (Rupees Three lakhs only) at the time of signing the petition for the first motion U/s 13 (B) of the Act and the second installment of Rs.4,00,000/- (Rupees Four lakhs only) at the time of signing the petition for the second motion U/s 13 (B) of the Act, shall be paid by the husband and received by the wife.

(d) It has further been agreed between the parties that the custody of Tushar, who is the only son born from the wedlock shall remain with the wife, but the husband shall have visitation right i.e. maximum six (6) visits in one year at mutually agreed place between the parties at Nagpur. If wife, Mitali at any time happens to be in Delhi then she will inform husband-Debabrata and in that situation husband-Debabrata can meet Master Tushar at Delhi. It is agreed between the parties that

the visitation right would only be to meet the child during the day hours. It is also agreed between the parties that in case of any dispute between the parties regarding visitation of the child, they shall approach the Delhi High Court Mediation and Conciliation Centre for an amicable solution.

(e) That the husband Debabrata admits and acknowledges the right of Master Tushar in the ancestral properties including E-235, Ramesh Nagar, New Delhi-110015.

(f) It has been agreed between the parties that husband Debabrata shall be bearing to and fro expense of wife Mitali from Nagpur to Delhi for moving both the petitions under section 13 (B) of the Act and for attending the hearings in the said petitions.

(g) It has further been agreed between the parties that the husband would allow the wife to open the almirah which although in possession of the husband, keys and locks are with the wife and he will allow the wife to remove / take possession all the articles lying in the said almirah. Husband also agreed to handover said almirah, double bed, dressing table, one necklace, two earrings and whatever other item of the wife, which he is in possession.

(h) It is further agreed between the parties that the husband would withdraw his divorce petition filed against the wife pending in the court of Mr. Nikhil Chopra, ADJ, Delhi and wife would not press for execution of order/decree passed by the Family Court at Nagpur on the petition filed by her.

3. The petition is disposed of in terms of settlement arrived at between the parties. Necessary orders shall be passed by the concerned Court as and when petitions in terms of the agreement are filed before said Court.

**.....J.
(Dr. ARIJIT PASAYAT)**

**.....J.
(ASOK KUMAR GANGULY)**

**New Delhi,
April 24, 2009**