

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (C) No. 20 OF 2005

Sarita Singh & Ors.

... Petitioner (s)

Vs.

Rajeshwar Singh

... Respondent (s)

O R D E R

R. V. Raveendran J.,

This petition by the wife is for transfer of the petition filed by her husband (respondent) under Section 9 of the Hindu Marriage Act, 1955 from the Court of Civil Judge, Bahraich, UP, to the court of competent jurisdiction at Delhi. On 24.1.2005 this Court directed notice and stay of further proceedings in the said case.

2. The matter was referred to Lok Adalat conducted by the Supreme Court. The parties and their counsel appeared before the Lok Adalat and with the assistance of two mediators reached a settlement in terms of the Settlement Agreement dated 25.4.2009. The said Settlement was recorded by the Members of the Supreme Court Lok Adalat by proceedings dated 25.4.2009. Under the said settlement

agreement, both parties agreed : (i) to withdraw proceedings initiated by them against each other; (ii) the petitioner-wife acknowledged the receipt of Rs. 1,10,000/- (Rupees one lakh ten thousand only) in full and final settlement of her claim for maintenance; and (iii) the parties agreed to file a petition under Article 13-B of the Hindu Marriage Act, 1955 ('Act' for short) for divorce by mutual consent.

3. In pursuance of the said settlement before the Lok Adalat, the parties have filed an application (IA No.4 of 2009) under Section 13-B of the Act in this transfer proceedings. We have heard the parties on 21.8.2009 and perused the record. It is clear from the transfer petition and joint petition under section 13B of the Act, that the parties who were married on 17.2.2001 have been living separately for several years, that is from 2003, that they have not been able to live together and there is no chance of reconciliation between them. It is also clear that they have agreed to dissolve their marriage by mutual consent without any coercion, undue influence or collusion. The transfer petition was filed in December 2004. The agreement to file a petition under section 13-B of the Act was on 25.4.2009, more than six months back.

4. In the circumstances, we deem it appropriate to accept the said application for dissolution of marriage, to do complete justice between the parties. We, therefore, allow the IA No. 4 of 2009 under Section 13-B of the Act and the marriage between the parties is dissolved by granting a decree of divorce by mutual consent. As the parties have already agreed to withdraw their respective cases, there is no need for passing any specific order in regard to transfer application in respect of the proceedings under Section 9 of the Act.

5. The transfer petition is disposed of accordingly.

J.
[R. V. Raveendran]

J
[B. Sudershan Reddy]

New Delhi;
November 20, 2009.