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ANU BHANDARI

v.

PRADIP BHANDARI

(Civil Appeal No. 2494 of 2018)

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MARCH 05, 2018

**[KURIAN JOSEPH AND
MOHAN M. SHANTANAGOUDAR, JJ.]**

C *Hindu Marriage Act, 1955 – s.13B – Divorce by mutual consent – Appellant and respondent married in 1997, living separately since March 2011, were involved in various civil as well as criminal litigations – Application filed by parties u/s.13B also – Held: After several efforts for settlement, finally the parties have reached a settlement based on which they have sought divorce by mutual consent – Having regard to the background of the litigation and long separation between the parties, the parties have taken a conscious decision uninfluenced by any extraneous factor, therefore it is not necessary for them to wait for a further period of six months – Accordingly, the marriage between appellant and respondent is dissolved by a decree of divorce by mutual consent – In terms of the settlement, the entire litigations between the parties are also put to an end – Parties are directed to strictly abide by the terms of settlement and are also restrained from instituting any fresh litigation in respect of the subject matter without the leave of Supreme Court.*

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Family Courts Act, 1984 – s.9 – Duty of Court – Discussed.

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Disposing of the appeals, the Court

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HELD: 1.1 The parties have cooperated with the tireless efforts taken by this Court. It is heartening to note that finally the parties have reached an amicable settlement. The terms of settlement have been stated in detail in Interlocutory Application No. 19210 of 2018, based on which the parties have sought for divorce by mutual consent. The said application shall form part of this Judgment. Having regard to the nature of the cases and having due regard to the settlement, it is in the interest of justice that the entire litigations between the parties are also put an end to, in terms of the settlement.[Paras 3, 4] [578-H; 579-A, C]

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1.2 As all the disputes have been settled, it is not necessary to relegate the parties for another litigation before the Family Court. The parties are present before Supreme Court. Having regard to the background of the litigation and having regard to the long separation between the parties, the parties have taken a conscious decision, uninfluenced by any extraneous factor and therefore, it is not necessary for them to wait for a further period of six months. Accordingly, the marriage between the appellant and the respondent is dissolved by a decree of divorce by mutual consent. They are directed to strictly abide by the terms of settlement and are also restrained from instituting any fresh litigation in respect of the subject matter without leave of this Court. [Paras 9 and 10] [581-D-E]

2. Under Section 9 of the Family Courts Act, 1984, the Court has a duty to make an endeavour to assist and persuade the parties in arriving at a settlement. Unlike many other legislations, the Legislature has cast a duty on the Court in that regard. The jurisdiction is not just to decide a dispute, on the contrary, the court also has to involve itself in the process of conciliation/mediation between the parties for assisting them not only to settle the disputes but also to secure speedy settlement of disputes. Such timely intervention of the court will not only resolve the disputes and settle the parties peacefully but also prevent sporadic litigations between the parties. [Para 14] [582-C-D]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2494 of 2018.

From the Judgment and Order dated 11.04.2016 of the High Court of Punjab and Haryana at Chandigarh in Civil Revision No. 3430 of 2014

WITH

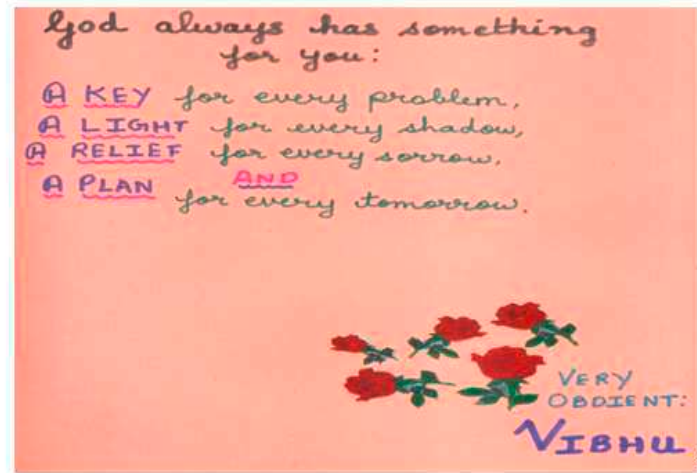
Civil Appeal No. 2495 of 2018.

Subramaniam Prasad, Sr. Adv., Ms. Varuna Bhandari Gugnani, Bhakti Vardhan Singh, Amit Kumar Pathak, Tushar Thareja, Vikas Singh Jangra, Siddhartha Iyer, H. Pal Singh, Ms. Ruchi Kohli, Gaurav Gilhotra, Ms. Rajitha (TH), Surinder Kumar Gupta, Advs. for the appearing parties.

A The Judgment of the Court was delivered by
KURIAN, J. 1. Leave granted.

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E This is the rich encomium paid to the Court by Master Vibhu, the
 ten year old son of the appellant and respondent. The little one present in
 Court today is exuberantly happy and sought liberty to present a handmade
 card expressing his joy on the settlement of all the disputes and litigations
 between his mother and father. Their marriage was solemnized as per
 Hindu rites on 18.05.1997. They have two children - Bhuvi, the elder
 daughter born on 19.04.1998 and Vibhu, son born on 31.01.2008. On
 account of marital discord and temperamental differences, they have
 been living separately since March, 2011. They are involved in various
 F litigations, civil as well as criminal. As of now, twenty three cases are
 pending before various courts – Trial Courts, High Court, this Court and
 one before the Consumer Forum.

G 3. There have been several efforts for settlement. Notable among
 them were the intervention of Hon’ble Mrs. Justice Lisa Gill, Judge of
 the High Court of Punjab and Haryana and Ms. Meenakshi Arora, learned
 Senior Counsel, appointed by this Court as Mediator. Having noticed
 that all the efforts hitherto have not been fully fruitful, we directed the
 parties to be present before this Court. The parties have cooperated

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with the tireless efforts taken by this Court. It is heartening to note that finally the parties have reached an amicable settlement. The terms of settlement have been stated in detail in Interlocutory Application No. 19210 of 2018, based on which the parties have sought for divorce by mutual consent. The Interlocutory Application No. 19210 of 2018 shall form part of this Judgment.

4. Since the parties have finally resolved their entire disputes, they have prayed for giving a quietus to the entire civil and criminal litigations. Having regard to the nature of the cases and having due regard to the settlement, we are of the view that it is in the interest of justice that the entire litigations between the parties are also put an end to, in terms of the settlement.

5. Accordingly, the following cases are quashed:-

Sl. No.	Case No.	Court/Authority
1.	CrI. Complaint No.162/14	Judicial Magistrate First Class, Chandigarh
2.	CrI. Complaint No.1359/16	Judicial Magistrate First Class, Chandigarh
3.	PHC 1430/14	Judicial Magistrate First Class, Chandigarh
4.	Untraceable Case 156/2016	Judicial Magistrate First Class, Chandigarh
5.	Case No.301/13 dated 14.6.13	Judicial Magistrate First Class, Chandigarh
6.	Case No.464/13	Judicial Magistrate First Class, Chandigarh
7.	FIR No.0167 dated 25.8.2017 P.S. City Phagwara	P.S. City Phagwara

A 6. The following cases are dismissed:-

Sl.No.	Case No.	Court/Authority
B 1.	Civil Suit No.12905/13	Judicial Magistrate First Class, Chandigarh
2.	Crl. Misc. Case No.570 of 2016	Judicial Magistrate First Class, Chandigarh
C 3.	Crl. Misc. Case No.305 of 2015	Judicial Magistrate First Class, Chandigarh
4.	Execution App. No.543/14	ADJ, Chandigarh
5.	Civil Suit No.CS CJ/1072/2016	JMIC, Chandigarh
D 6.	Contested Mutation No.8303 of Village Maloya, Chandigarh	Sub. Divisional Magistrate (South) U.T. Chandigarh

7. The following cases are disposed of in terms of the Settlement:-

Sl.No.	Case No.	Court/Authority
E 1.	CRM No.M-1087 of 2017	High Court of Punjab and Haryana at Chandigarh
2.	CRM No.M-10620 of 2017	High Court of Punjab and Haryana at Chandigarh
F 3.	CRM No.M-14499 of 2017	High Court of Punjab and Haryana at Chandigarh
4.	CRM No.M-7865 of 2017	High Court of Punjab and Haryana at Chandigarh
G 5.	CRM No.M-7622 of 2017	High Court of Punjab and Haryana at Chandigarh
6.	CRM No.M-31885 of 2017	High Court of Punjab and Haryana at Chandigarh
7.	CRM No.M-22474 of 2014	High Court of Punjab and Haryana at Chandigarh

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The Consumer Case No.580 of 2014 filed by Ms. Anu Bhandari pending before the Chandigarh District Consumer Disputes Redressal Forum-I, UT Chandigarh is dismissed. A

8. Civil Appeal No. 2494 of 2018 arises out of Special Leave Petition (Civil) No. 15537 of 2016 filed by Ms. Anu Bhandari being aggrieved by Order dated 11.04.2016 passed by the High Court of Punjab and Haryana in Civil Revision No. 3430 of 2014. Civil Appeal No. 2495 of 2018 arises out of Special Leave Petition (Civil) No. 2343 of 2017 is filed by Pradip Bhandari being aggrieved by Order dated 11.04.2016 passed by the High Court of Punjab and Haryana in Civil Revision No. 3430 of 2014. B

9. What survives is only the Application filed by the parties under Section 13B of the Hindu Marriage Act, 1955. As we have settled all disputes, we do not think it necessary to relegate them for another litigation before the Family Court. The parties are present before us. Having regard to the background of the litigation and having regard to the long separation between the parties, we are convinced that the parties have taken a conscious decision, uninfluenced by any extraneous factors. Therefore, it is not necessary for them to wait for a further period of six months. Accordingly, the marriage between Anu Bhandari and Pradip Bhandari is dissolved by a decree of divorce by mutual consent. C

10 The appellant and respondent are directed to strictly abide by the terms of settlement. They are also restrained from instituting any fresh litigation in respect of the subject matter without leave of this Court. D

11. In our Order dated 15.02.2018, the following direction in terms of the statement had been issued:

“2. Mr. Pradip Bhandari is directed to transfer his share in agricultural land situated in Khewat No.159, Khatauni No.176, Khasra 46/2 (20-0) in Village Golpura, Tehsil and District Panchkula as per Jamabandi for the year 2007-2008 left over land owned as on date by Mr. Pradip Bhandari in favour of Ms. Anu Bhandari/wife, Bhuvi Bhandari and master Vibhu Bhandari.” F

12. The Tehsildar concerned is directed to effect the required transfer and change the mutation in respect of the property referred to in the order in favour of Anu Bhandari, Bhuvi Bhandari and Master Vibhu Bhandari. It is made clear that the share of Mr. Pradip Bhandari will be equally divided among the three. This shall be done immediately. G

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A 13. We are informed that an amount of Rs.50,000/- (Rupees Fifty
Thousand) is lying in the form of Demand Draft in the name of Ms. Anu
Bhandari with Judicial Magistrate First Class, Chandigarh in Case No.
301 of 2013 dated 14.06.2013. We direct the Court concerned to return
the Demand Draft to Mr. Pradip Bhandari forthwith. Mr. Pradip Bhandari
is directed to pay an amount of Rs.50,000/- to Ms. Anu Bhandari within
B a week thereafter.

14. Before parting with the Judgment, we may hasten to observe
that what has been closed is not simply twenty three cases; in the
background of both the parties, they would have easily gone for many
more litigations in the coming years. Under Section 9 of the Family Courts
C Act, 1984, the Court has a duty to make an endeavour to assist and
persuade the parties in arriving at a settlement. Unlike many other
legislations, the Legislature has cast a duty on the Court in that regard.
The jurisdiction is not just to decide a dispute, on the contrary, the court
also has to involve itself in the process of conciliation/mediation between
D the parties for assisting them not only to settle the disputes but also to
secure speedy settlement of disputes. Such timely intervention of the
court will not only resolve the disputes and settle the parties peacefully
but also prevent sporadic litigations between the parties.

15. We record our deep appreciation for the strenuous efforts
E taken by Hon'ble Mrs. Justice Lisa Gill, Judge of the High Court of
Punjab and Haryana, Ms. Meenakshi Arora, learned Senior Counsel
appointed as Mediator by this Court and for the cooperation extended
by the learned Counsel on both sides and the parties themselves.

F 16. The Civil Appeals are accordingly disposed of.

17. There shall be no order as to costs.