

# Hemlataben D/O. Lilaramji Sohanlaji ... vs Arvindkumar @ Manish Maganlal Chelaji ... on 19 January, 2024

**Author: Biren Vaishnav**

**Bench: Biren Vaishnav**

C/FA/2572/2023

ORDER DATED: 19/01/2024

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/FIRST APPEAL NO. 2572 of 2023

With

CIVIL APPLICATION (FOR STAY) NO. 1 of 2023

In R/FIRST APPEAL NO. 2572 of 2023

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HEMLATABEN D/O. LILARAMJI SOHANLAJI MALAVIYA

Versus

ARVINDKUMAR @ MANISH MAGANLAL CHELAJI MALVI (LUHAR)

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Appearance:

MR D S GADHVI(11310) for the Appellant(s) No. 1

MR R.K.MANSURI(3205) for the Defendant(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE BIREN VAISHNAV

and

HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 19/01/2024

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE BIREN VAISHNAV)

1. Heard learned advocate Mr. D.S. Gadhvi for the appellant and learned advocate Mr. R.K. Mansuri for the respondent.

2. Pursuant to the order dated 17.10.2023, the parties were referred to the Mediation Centre. Fortunately, by Memorandum of Understanding between the respective parties on 13.12.2023, the parties have arrived at the settlement.

3. The terms and conditions of the Memorandum of NEUTRAL CITATION C/FA/2572/2023 ORDER DATED: 19/01/2024 undefined Understanding in the settlement deed are as under:

"(A) The Respondent-Husband will make prayer before the court by giving his consent to allow the appeal filed by Appellant-Wife and also for quashing the judgment and decree of divorce passed in Family Suit No.08 of 2020 dated 28.11.2022 at Family Court, Himmatnagar.

(B) The Appellant-Wife shall withdraw all the cases filed by her in various courts in the State of Rajasthan or at any place against her Husband and will not keep any case pending before joining her husband at his house.

(C) The Respondent-Husband will make an application for quashing before Hon'ble High Court of Rajasthan of Criminal Complaint vide FIR No.32 of 2020 with Sadar Thana Police Station, Abu Road which is culminated in Case No.301 of 2020 which is pending before the Hon'ble Court of Judicial Magistrate Abu Road. The Appellant-Wife will give her consent for quashing of this complaint before Hon'ble High Court of Rajasthan. This application of quashing by husband will be filed on or before 15th January 2024 for its earliest disposal.

(D) Both the parties have agreed that after they start staying together they will take nice care of each other. They will give due respect and love to each other and also to their family members.

NEUTRAL CITATION C/FA/2572/2023 ORDER DATED: 19/01/2024 undefined (E) Both the parties have agreed to take proper care of their daughter- 'Hejal' with regard to her health, emotional needs and education.

(F) Both the parties agreed that they will start resuming staying together only after all the cases filed by them against each other are withdrawn and also after the appeal is allowed and decree of divorce is quashed. Both the parties agreed to extend necessary co-operation to each other for resolution of all cases.

(G) The parties agree to withdraw all allegation/application/cases/complaints made by them against each other and their family members, in relation to this matrimonial alliance and they will not press for their respective prayers passed in them. In case of breach of terms both the parties shall have the liberty to revive/press their respective applications and claims/orders made in them.

(H) All the disputes between the parties herein above stands settled by executing this memorandum of agreement and both the parties are bound to follow the terms of this memorandum of agreement

strictly.

(I) The parties hereby declare that they will abide by terms and conditions set out hereinabove, in this memorandum of understanding and co-operate each other. In case of breach of above terms by the husband NEUTRAL CITATION C/FA/2572/2023 ORDER DATED: 19/01/2024 undefined or by the wife, they shall have liberty to revive all the cases.

(J) The parties have voluntarily settled all the disputes amicably, without any coercion, understood the contents of terms of settlement and have put their signatures on the same.

(K) Both the parties to this proceeding would pray to the Hon'ble Court to pass appropriate orders in terms of the consent terms arrived at between them in the above referred applications.

(L) The terms of the settlement are explained and interpreted in Gujarati and Hindi to both the parties and then recorded their consent and they have put their signatures voluntarily as a taken of having accepted the same before the Mediator appointed by the Mediation Centre of the Hon'ble High Court of Gujarat at Ahmedabad on this 13 th December day of 2023."

4. One of the terms of the settlement was that respondent-

husband will agree for allowing the appeal and quashing of the judgment and decree of divorce passed in Family Suit No.8 of 2020 on 28.11.2022.

5. Accordingly, the decree of divorce passed in Family Suit No.8 of NEUTRAL CITATION C/FA/2572/2023 ORDER DATED: 19/01/2024 undefined 2020 by learned Principal Judge, Family Court, Himmatnagar, District-Sabarkantha on 28.11.2022, is quashed and set aside. The parties shall abide by the terms and conditions of the settlement deed, which are reproduced above. Accordingly, the First Appeal stands disposed of. The civil application for stay will not survive and stands disposed of.

(BIREN VAISHNAV, J) (NISHA M. THAKORE,J) SUYASH SRIVASTAVA