

ITEM NO.17

COURT NO.8

SECTION XVIA

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

T R A N S F E R P E T I T I O N (C I V I L) N O (S) . 1 1 1 8 / 2 0 1 4

SHILPA SAILESH

PETITIONER(S)

VERSUS

VARUN SREENIVASAN

RESPONDENT(S)

[WITH APPLN.(S) FOR STAY, JOINT APPLICATION FOR DIVORCE AND OFFICE REPORT]

WITH

T.P.(CRL.) NO. 96/2014

(WITH APPLN.(S) FOR PASSING APPROPRIATE ORDER OR DECREE UNDER ARTICLE 142 OF THE CONSTITUTION AND STAY AND OFFICE REPORT)

T.P.(CRL.) NO. 382/2014

(WITH APPLN.(S) FOR STAY AND JOINT APPLICATION FOR DIVORCE AND OFFICE REPORT)

T.P.(CRL.) NO. 468/2014

(WITH APPLN.(S) FOR STAY AND JOINT APPLICATION FOR DIVORCE AND OFFICE REPORT)

T.P.(C) NO. 1481-1482/2014

(WITH APPLN.(S) FOR STAY AND JOINT APPLICATION FOR DIVORCE AND OFFICE REPORT)

T.P.(CRL.) NO. 339/2014

(WITH APPLN.(S) FOR EX-PARTE STAY AND OFFICE REPORT)

Date : 06/05/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE N.V. RAMANA

For Petitioner(s)

TP(C) 1118/14 & rr in

Mr. Roy Abraham, Adv.

TP(Crl) 468/14

Ms. Seema Jain, Adv.

TP(C) 1481-82/14

Mr. Vikas Arora, Adv.

Mr. Himinder Lal, Adv.

TP(Cr1) 382/14, 468/14, Mr. Jayant Bhushan, Sr. Adv.
 1481-82/14 & RR IN Mr. Nirnimesh Dube, Adv.
 TP(C) 1118/14 Mr. Susheel C. Joseph, Adv.
 Mr. Subash Nair, Adv.
 Mr. Shubham Jaiswal, Adv.
 Mr. Ankur S. Kulkarni, Adv.
 Ms. S. Dube, Adv.
 for M/s Lex Regis Law Offices

TP(CRL) 96/14 & 339/14 Ms. Anitha Abraham, Adv.
 Ms Hetu Arora Sethi, Adv.

For Respondent(s)

TP(CRL) 96/14 & 339/14 Mr. Sanjeev Agarwal, Adv.
 Mr. Ekansh Agarwal, Adv.

UPON hearing the counsel the Court made the following
 O R D E R

T.P. (C) NO.1118/2014, T.P. (CRL) NO.382/2014, T.P. (CRL)
 NO.468/2014 AND T.P. (C) NOS. 1481-1482/2014

The matters will be listed in the month of
 August, 2015 in terms of the signed order.

T.P. (CRL.) NO. 96/2014 & T.P. (CRL.) NO.339/2014

We have interacted in open Court with the parties
 who are present in person. On such interaction, we are of
 the view that the grant of mutual divorce, at this stage,
 is not called for. We adjourn the matter for one month to
 enable the parties to reconsider the matter and take an
 appropriate decision.

List the matters after a month.

[VINOD LAKHINA]
 COURT MASTER

[ASHA SONI]
 COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE]

IN THE SUPREME COURT OF INDIA
CIVIL/CRIMINAL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO.1118 OF 2014

SHILPA SAILESH . . .PETITIONER

VERSUS

VARUN SREENIVASAN . . .RESPONDENT

WITH

TRANSFER PETITION (CRL.) NO. 382/2014
[VARUN SREENIVASAN & ORS. VS. SHILPA VARUN]

WITH

TRANSFER PETITION (CRL.) NO. 468/2014
[VARUN SREENIVASAN VS. SHILPA VARUN]

WITH

TRANSFER PETITION (C) NO. 1481-1482/2014
[VARUN SREENIVASAN ETC. VS. SHILPA VARUN]

ORDER

1. The Court had directed the parties to make an attempt to settle the disputes and differences between them out of Court. The parties responded well to the aforesaid suggestion of the Court and have settled the matter and filed a joint application(s) before the Court incorporating the terms of the settlement. While withdrawal of the

cases and the cross cases filed by and between the parties and return of ornaments are incidental parts of the settlement, the parties have also agreed to dissolve their marriage by mutual consent and seek an appropriate order from this Court under Article 142 of the Constitution of India for dissolution of the marriage.

2. We have heard the learned counsels for the parties; considered the terms of settlement and have taken note of the relevant facts and circumstances. While the husband would be about 31 years in age, the wife is about 27 years. The husband is a businessman in Pune whereas the wife is presently in Muscat, Sultanate of Oman in connection with the business of her father and she is working as Director in a Company in Muscat.

3. From the materials on record, it appears that there has been an irretrievable breakdown of marriage between the parties and the parties do not have any issue. In such circumstance requiring the parties to go to the jurisdictional family court to invoke the provisions of the Hindu Marriage Act, 1955 to seek a decree of divorce would be a lengthy process considering the fact that the Family Courts in the country are clogged with a huge volume of similar litigation. We are, therefore, of the view that in the facts of the present case we ought to invoke our jurisdiction under Article 142 of the Constitution of India and dissolve the marriage between the parties so as to enable the parties to commence their respective life afresh. We order accordingly and while directing the parties to give effect to the terms of the

settlement the marriage between them shall stand dissolved.

4. Notwithstanding the above order passed by us, for the purposes of statistics the present transfer petitions shall remain pending as we are of the view that an issue of some importance needs to be addressed by the Court in view of the huge number of requests for exercise of power under Article 142 of the Constitution that has confronted this Court consequent to settlement arrived at by and between the husband and the wife to seek divorce by mutual consent.

5. The questions are formulated herein below:

1. "What could be the broad parameters for exercise of

powers under Article 142 of the Constitution to dissolve a marriage between the consenting parties without referring the parties to the Family Court to wait for the mandatory period prescribed under Section 13-B of the Hindu Marriage Act.

2. Whether the exercise of such jurisdiction under Article 142 should not be made at all or whether such exercise should be left to be determined in the facts of every case."

6. To enable us to take an appropriate decision on the matter we seek the assistance of the following learned Senior Counsels.

- (i) Mr. V.Giri
- (ii) Mr. Dushyant Dave
- (iii) Ms. Indira Jaising
- (iv) Ms. Meenakshi Arora

7. A copy of the present order be furnished to the aforesaid learned Senior Counsels. The matters will be listed in the month of August, 2015.

.....,J.
(RANJAN GOGOI)

.....,J.
(N.V. RAMANA)

NEW DELHI
MAY 06, 2015