

2025 LiveLaw (SC) 305

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

VIKRAM NATH; J., SANDEEP MEHTA; J.

TRANSFER PETITION(CIVIL) NO(S). 875 OF 2024; FEBRUARY 28, 2025

ARUN RAMESHCHAND ARYA *versus* PARUL SINGH

Family Law - Divorce by Mutual Consent - Mediation - Property Settlement - Stamp Duty Exemption - Where parties in a transfer petition for divorce, referred to mediation, reached a mutual agreement to dissolve their marriage and settle their property dispute, the Supreme Court, exercising its powers under Article 142 of the Constitution of India, directed the dissolution of the marriage by mutual consent. The Court further directed the transfer of absolute ownership of a jointly owned flat to the wife, waiving stamp duty on registration, relying on Section 17(2)(vi) of the Registration Act, 1908, which exempts registration fees for decrees or orders of the Court, except compromises involving immovable property outside the subject matter of the proceedings. As the flat was the subject of the compromise within the proceedings, the exemption applied. The Court also directed the Sub-Registrar to register the flat in the wife's name without any encumbrances, and the wife waived her right to alimony. (Para 6 & 7)

For Petitioner(s): Mr. Rajiv K.Garg, Adv. Mr. Ashish Garg, Adv. Mr. Lalit Nagar, Adv. Mr. T. L. Garg, AOR

For Respondent(s): Mr. Himanshu Shekhar, AOR Mr. Parth Shekhar, Adv. Mr. Shubham Singh, Adv. Ms. Ambali Vedasen, Adv. Mr. Youkteshwari Prasad, Adv. Mr. Mata Prasad Pathak, Adv. Mr. Mukesh Kumar Verma, Adv. Mr. Ugranath Kumar, Adv. Mr. Prakhar Garg, Adv. Mr. Gyanesh Kumar Maheswari, Adv.

ORDER

1. This transfer petition was preferred by the petitioner-husband seeking transfer of Divorce Petition No. A/2335 of 2023 filed by the respondent-wife from the Family Court, Bandra, Mumbai to a Court of competent jurisdiction Family Court, Karkardooma, District Court, Shahdara, Delhi.
2. During the pendency of the transfer petition, the parties were referred to mediation and wiser counsel has prevailed inasmuch as both the petitionerhusband as well as the respondent-wife have filed separate applications under Article 142 of the Constitution of India for dissolving the marriage by mutual consent.
3. The bone of contention between the parties is a flat¹ of joint ownership being Flat No. 601, 6th Floor, admeasuring 39.76 Sq. Meter(428 Sq. Ft.) Carpet Area in the building Panorama, called Green Hills Cooperative Housing Society Ltd. in Godrej Hill, Village Barave Kalyan(West)-421301. Claims and counterclaims have been made by the parties regarding the source of funds utilized for acquiring the flat-inquestion. However, finally, the petitioner-husband has consented that he is ready to relinquish his rights over the flat-inquestion in favour of the respondent-wife who has also agreed to divorce by mutual consent without demanding any alimony from the petitioner-husband. It may be noted that both the parties are highly qualified and well-established in life.
4. It is thus directed that the absolute ownership of the said flat i.e., Flat No. 601, 6th Floor, admeasuring 39.76 Sq. Meter(428 Sq. Ft.) Carpet Area in the building Panorama, called Green Hills Co-operative Housing Society Ltd. in Godrej Hill, Village Barave

¹ Hereinafter, referred to as "flat-in-question".

Kalyan(West)-421301 shall henceforth vest in the name of the respondent-wife, i.e., Parul Singh, without any encumbrances. The petitioner-husband shall not be entitled to claim any rights or privileges in relation to the said flat hereinafter.

5. The respondent-wife shall not claim any amount towards alimony or any other amount from the petitioner-husband.

6. Now, we have to examine whether the exclusive title of the flat-in-question can be transferred in the name of the respondent-wife without requiring her to pay the stamp duty. In this regard, we may refer to the judgment of this Court in **Mukesh v. The State of Madhya Pradesh & Anr.**¹, wherein, while interpreting Section 17(2)(vi) of the Registration Act, 1908², it was held that the exemption from payment of registration fees pursuant to decree or order of the Court is provided under Section 17(2)(vi) of the Registration Act, 1908 with the exception that if the compromise involves immovable property other than the property for which the decree is prayed for, such property would not be covered and would require registration. Manifestly, the flat-in-question is the subject matter of the compromise and as a consequence, it forms part of the proceedings before this Court. Hence, the exclusion provided by Section 17(2)(vi) of the Registration Act, 1908 will apply and the registration of the flat-in-question in the exclusive name of the respondent-wife would be exempted from the payment of stamp duty.

7. Resultantly, we direct the Sub-Registrar concerned to register the flat-in-question in the exclusive name of respondent-Parul Singh as its owner.

8. The applications under Article 142 of the Constitution of India are hereby allowed. Accordingly, the marriage of the parties is dissolved by mutual consent.

9. Decree be prepared in the above terms.

10. Consequently, the present transfer petition is disposed of.

11. Pending application(s), if any, shall also stand disposed of.

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¹ 2024 SCC OnLine 3832

² **17. Documents of which registration is compulsory.**—(1) The following documents shall be registered, if the property to which they relate is situate in a district in which, and if they have been executed on or after the date on which, Act No. XVI of 1864, or the Indian Registration Act, 1866, or the Indian Registration Act, 1871, or the Indian Registration Act, 1877, or this Act came or comes into force, namely:—

...

(2) Nothing in clauses (b) and (c) of sub-section (1) applies to—

...

(vi) any decree or order of a Court [except a decree or order expressed to be made on a compromise and comprising immovable property other than that which is the subject-matter of the suit or proceeding];

...