



IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO.2814 of 2023

SMT. SAPNA NEGI

...PETITIONER(S)

VERSUS

SH. CHAMAN SINGH AND ANOTHER

...RESPONDENT(S)

J U D G M E N T

Aravind Kumar, J.

1. The Petitioner-wife is seeking for transfer of the proceedings in HMA No.428 of 2023 titled “Sh. Chaman Singh Vs. Smt. Sapna Negi and another” pending before the court of the Principal Judge, Family Courts, Roorkee, Uttarakhand to the Family Court, Patiala House Courts, New Delhi.

2. We have heard the arguments of Shri Gaurav Prakash Pathak appearing for petitioner and Shri Nagarkatti Kartik Uday appearing for respondents. The marriage between the petitioner and respondent came to be solemnised on 12.05.2013 and a daughter, Ms. xxx was born on 18.05.2016.

3. The respondent-husband filed a petition under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 for grant of decree of divorce alleging that petitioner had breached the trust and she was already in relationship with the second respondent and despite advice given to her to return to the matrimonial home, she has continued to neglect the family and had failed to discharge her marital obligations. It is also alleged that petitioner-wife having secured a job as a teacher in July, 2022, had completely neglected Respondent-husband. Whereas petitioner-wife contended that on account of the first respondent-husband having neglected the petitioner and her daughter and having failed to take care of them, she was left with no other option but to return to her parental home and she has been residing there from 2019.

4. This Court in order to explore the possibility of the parties arriving at a settlement had referred the matter to the Supreme Court Mediation Centre and report dated 24.07.2024 received from the mediation centre would disclose that mediation had failed. It is pertinent to note at this juncture itself, this Court on 28.08.2024 has recorded that relationship between the petitioner and the first respondent had irretrievably broken down. It is in this background, the matter came to be referred to mediation, which did not fructify into settlement and parties present before the Court have also fairly admitted that the marriage has irretrievably broken down.

5. In the factual scenario explained herein above we are of the considered view that the exercise of the power under Article 142(1) of the Constitution of India is warranted in the facts and circumstances of the case and also to do complete justice between the parties particularly in the background of this Court having noted herein above that marriage between the petitioner and the first respondent has completely failed and the parties had not cohabitated from 2019 till date and there being no possibility that the parties will cohabit in future. Hence, continuation of the legal relationship would be unjustified and would not subserve the interest of the parties. Under similar circumstances, this Court in **Shilpa Sailesh v. Varun Sreenivasan**<sup>1</sup>, has held that this Court can depart from the procedure as well as the substantive laws, as long as the decision is exercised based on considerations of fundamental, general and specific public policy. It is also held that in exercise of power under Article 142(1) of the Constitution of India, this Court has the discretion to dissolve the marriage on the ground of its irretrievable breakdown, and this discretionary power is to be exercised to do 'complete justice' to the parties, when this Court is satisfied that the facts established show that the marriage has completely failed and there is no possibility that the parties will cohabit together, and continuation of the formal legal relationship is unjustified.

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<sup>1</sup> 2023 SCC OnLine SC 544

6. Hence, we are of the view that continuation of the proceedings before the Trial Court could only be an ordeal which both the parties will have to undergo and we are of the considered view that marriage between the petitioner and respondent having irretrievably broken down, exercise of power by this Court under Article 142 of Constitution of India is called for in the facts and circumstances obtained and also keeping in mind that petitioner and first respondent are quite young namely 32 years and 38 years respectively and have future ahead of them. It is also undisputed that daughter Ms. xxx born out of this wedlock is aged about 8 years and has been residing with the petitioner-wife from the year 2019. There was a settlement agreement entered into between the parties on 22.03.2023 whereunder it is agreed that the daughter would be residing with the petitioner and will be taken care of by the petitioner herself. Under the said agreement, a sum of Rs 7,00,000/- has been deposited in the name of minor daughter Ms. xxx in a fixed deposit with UCO Bank, Sabhawala Branch by the first respondent-husband which is not disputed by the petitioner, though the said settlement is seriously disputed by the petitioner on the ground that she is not a signatory. Having regard to the fact that petitioner is also gainfully employed in a Government school and earning a reasonable income and keeping in mind the financial capability of the first respondent-husband to take care of the interest of the daughter, we are of the considered view that ends of the justice would meet if the first respondent is directed to pay a permanent

alimony of Rs.13,00,000/- in addition to the amount of Rs. 7,00,000/- already deposited in a fixed deposit, as it would take care of the financial interest of the minor daughter. Thus, by securing the interest of the minor daughter of the petitioner and first respondent, the petition HMA No.428 of 2023 titled “*Sh. Chaman Singh Vs. Smt. Sapna Negi and another*” pending before the court of the Principal Judge, Family Courts, Roorkee, Uttarakhand can be disposed of by granting a decree of divorce of the marriage that was solemnised between petitioner and first respondent on 12.05.2013 by allowing the said petition. Hence, the marriage solemnised on 12.05.2013 between the petitioner and first respondent-husband stands dissolved by granting a decree of divorce in exercise of the power vested under Article 142(1) of the Constitution of India. Petition stands disposed of accordingly. Pending interlocutory application(s), if any, stand consigned to records.

.....J.  
(B.R. Gavai)

.....J.  
(Aravind Kumar)

.....J.  
(K.V. Viswanathan)

New Delhi  
October 24, 2024