

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (C) NO.400 OF 2009

Priyanka Singh

...Petitioner

Versus

Jayant Singh

...Respondent

ORDER

1. This is a petition for transfer of Divorce Petition No.1118 of 2008 titled Shri Jayant Singh vs. Smt. Priyanka Singh pending in the Court of Civil Judge (Senior Division), Gautam Budh Nagar (U.P.) to District Court, Koderma (Jharkhand).

2. While issuing notice, this Court stayed further proceedings of the divorce case. On 15.5.2009, the parties appeared in person and presented a joint application for grant of decree of divorce by mutual consent. However, as the averments necessary for making out a case under Section

13B of the Hindu Marriage Act, 1955 (for short 'the Act') were not made in the application, the case was adjourned with a direction to the parties to file an appropriate application. Thereafter, the parties jointly filed I.A. No.3 of 2009 with the prayer that their marriage be dissolved by granting a decree of divorce by mutual consent. They also filed an application (I.A. No.4 of 2009) under Section 13B of the Act for dissolution of marriage by a decree of divorce by mutual consent by stating therein that due to temperamental incompatibility, the parties have not been able to live together as husband and wife; that they have been living separately since 12.3.2005 and that the marriage is irretrievably broken down. It has also been averred that there is no chance of reconciliation between the parties and after due intervention of the family members and other relatives, they have decided to seek a decree of divorce by mutual consent. Both the I.As are supported by the affidavits of the parties.

3. We have heard learned counsel for the parties and perused the record. Keeping in view the fact that the parties are living separately for last more than 4 years and 6 months and there is no chance of reconciliation between them and also the fact that they have agreed to dissolve their marriage by mutual consent without any coercion or undue influence, we deem it proper to accept the prayer made in the two

applications for dissolution of marriage. Accordingly, Divorce Petition No.1118 of 2008 titled Shri Jayant Singh vs. Smt. Priyanka Singh pending in the Court of Civil Judge (Senior Division), Gautam Budh Nagar (U.P.) is transferred to this Court and marriage between the parties is dissolved by granting a decree of divorce by mutual consent in terms of Section 13B of the Act.

4. The transfer petition is disposed of in the manner indicated above.

.....J.
[R.V. RAVEENDRAN]

.....J.
[G.S. SINGHVI]

New Delhi
November 10, 2009