



Wife gets a fair alimony in New York

BACKGROUND

Husband had filed Petition for divorce in the Family Court, Mumbai. The contention of husband was that they were married in Mumbai under the Hindu Marriage Act and therefore though the parties were living in New York, the husband filed the Petition in the Family Court, Mumbai. ANA was representing the wife. The wife had filed Petition for divorce in New York. The husband had challenged the jurisdiction of the New York Courts to grant divorce. However, the Supreme Court of New York as well as its Appellate Division held that both the husband and wife are domiciled in New York and therefore the Courts in New York would have jurisdiction. As per the laws in New York, the wife was entitled to equitable distribution of alimony and would get a bigger amount in alimony than what she would get in India. Therefore, in order to deprive the wife of alimony, the husband filed Petition for divorce in Mumbai.

CHALLENGES

- To challenge the jurisdiction of the Family Court, Mumbai on the ground that the parties are not domiciled in Mumbai but are domiciled in New York.
- To obtain a fair settlement for the wife.

STRATEGY

- After studying all the documentations and the proceedings before the Courts at New York an Application was filed before the Family Court on behalf of the wife challenging the jurisdiction of the Family Court to entertain the Petition on the ground that the parties are domiciled in New York.
- It was an upheaval task considering that the parties were married in Mumbai as per the Hindu Marriage Act.
- A thorough research was conducted on the issue of domicile of the parties viz-a-viz the jurisdiction of the Court in India to grant divorce.

IMPACT

- A strong objection was raised against the jurisdiction of the family court.
- The husband on realizing that the Petition in Mumbai would be dismissed for want of jurisdiction and that he would have to proceed with the Petition in New York came forward for an amicable settlement.
- The legal team participated in the negotiation and ultimately the wife received a fair settlement by way of alimony and the marriage was dissolved by mutual consent.