

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29-7-2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Tr.CMP.Nos.620 & 621 of 2014

M.V.Malaimagal

... Petitioner in
both Tr.C.M.Ps.

Versus

G.D.Babu

... Respondent in
both Tr.CMPs

Tr.CMP.No.620 of 2015

This petition is filed under Section 24 of C.P.C. to withdraw F.C.O.P.No.4/2014 pending on the file of the Family Court at Vellore and transfer the same to the Family Court at Chennai.

Tr.CMP.No.621 of 2015

This petition is filed under Section 24 of C.P.C. to withdraw F.C.O.P.No.175 of 2014 pending on the file of the Family Court at Vellore and transfer the same to the Family Court at Chennai.

For Petitioner : Mr.S.D.Venkateswaran
For Respondent : Mr.V.Anandha Murthy

ORDER

The above transfer petitions have been filed by the wife seeking transfer of divorce petition filed by her in FCOP.No.175 of 2014 pending on the file of Family Court, Vellore and FCOP.No.4 of 2014 filed by the respondent before the same court seeking for custody of the minor child, to the file of Family Court, at Chennai.

2. Taking into consideration of the interest of the child and young age of the parties, this court directed both the parties to be present along with their child. With the active cooperation of the respective counsels, the parties are able to arrive at a decision by which both the parties agreed to get separated mutually.

3. When the matter is called today before this Court, both the petitioner as well as respondent are present. The petitioner is accompanied by her father. Both the parties have categorically sated that they do not want to get reunited and pray for dissolution of

their marriage dated 14.2.2003. Categorical statements have been made by the parties to that effect before this Court and a memorandum of compromise dated 29.7.2015 signed by both the parties and also signed by their respective counsels has been filed.

4. As per the memorandum of compromise, the respondent handed over DD for Rs.3,50,000/- (Rupees three lakhs fifty thousand only) in favour of the petitioner towards permanent alimony and also handed over the fixed deposit receipt for Rs.10,00,000/- (Rupees ten lakhs only) in the name of his daughter namely Miss.M.B.Thangamithra, issued by Andhra Bank Bagayam, Vellore Branch. The DD for Rs.3,50,000/- as well as the fixed deposit receipt for Rs.10,00,000/- have been handed over to the learned counsel appearing for the petitioner and the same are received.

5. It is also agreed by the parties that the custody of their child Miss.M.D.Thangamithra shall be with the mother, the petitioner herein. After completion of 15 years of minor child, the respondent father shall have visiting rights, four months once. In the meanwhile, if the minor child attains puberty, the petitioner would inform the respondent-father. The respondent's family members and their relatives should be allowed to visit the minor child at that time. There will be no objection by the petitioner and the petitioner undertakes not to create any problem at that time. It is open to the respondent-father to offer anything to his daughter according to his wish and the same cannot be objected by the petitioner.

6. In the above circumstances, there is no necessity to keep M.C.O.P.No.4 of 2014 and F.C.O.P.No.175 of 2014 pending before the Family Court Vellore. Therefore, this Court, exercising the Power under Article 227 of the Constitution of India, suo motu withdraws the above divorce petition and grants decree of divorce, dissolving the marriage dated 14.2.2003 solemnised between the petitioner and the respondent, by mutual consent under Section 13(b) of the Hindu Marriage Act. Similarly, F.C.O.P.No.4 of 2014 filed by the respondent is also withdrawn and the same is hereby dismissed.

7. The memorandum of compromise filed by the parties shall form part of the order and the parties are directed to act as per the covenants made therein. More over, an I.A.No.84 of 2013 has been taken out by the respondent in F.C.O.P.No.4 of 2014 seeking visiting rights and same was allowed by the Family Court. The said order passed by the Family Court was challenged before this Court in C.R.P.No.963 of 2014 and the same is pending. Moreover, the petitioner also filed W.P.No.13597 of 2014 seeking writ of prohibition, prohibiting the Family Court proceedings in F.C.O.P.No.4 of 2014 filed by the respondent and the same is pending.

8. In view of the order of divorce granted by this Court in F.C.O.P.No.175 of 2014 and also the dismissal order passed in F.C.O.P.No.4 of 2014 by this Court, C.R.P.963 of 2014 and

W.P.No.13597 of 2014 filed by the petitioner have become infructuous. The transfer petitions are disposed of. No costs. Consequently the connected M.P.No.1 of 2014 in Tr.C.M.P.No.620 of 2014 and M.P.No.1 of 2014 in Tr.C.M.P.No.621 of 2014 are closed.

(Memorandum of Compromise xerox copy of the enclosed)

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vk

To
The Judge Family Court, Vellore.

+1cc to Mr.V.Anandhamurthy, Advocate, S.R.No.39194

+1cc to M/s. S.D. Venkateswaran, Advocate, S.R.No.39040

KSJ(CO)
EU(17/08/2015)

Tr.CMP.Nos.620 and 621 of 2014

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