

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.07.2015

Coram

The Honourable Mr.Justice N.KIRUBAKARAN

TR.CMP.No.136 of 2015

and

M.P.No.1 of 2015

D.Sasikumar Durai Singh.

s/o.Durai Singh.

.. Petitioner/Respondent.

Vs.

G.Preetha

.. Respondent/Petitioner.

Prayer: This petition has been filed Under Section 24 of the Code of Civil Procedure code to withdraw the case in O.P.No.92 of 2015 on the file of the III Additional Family Court, Chennai and the same to be transferred to the file of the Family Court, Vellore, Vellore District.

For Petitioner : Mr.K.G.Senthilkumar

For Respondent : Mr.R.Harishankar

O R D E R

This petition has been filed by the petitioner/husband seeking transfer of O.P.No.92 of 2015 filed by the respondent/wife before the III Additional Family Court, to dissolve the marriage held between the petitioner and the respondent on 21.06.2013 at Madras Youth Centre Auditorium, Vepery, Chennai, where the petitioner is residing and he is unable to travel from Vellore to Madras, due to his illness.

2. When the matter was called on 06.07.2015, it was represented by both the parties and their respective counsel that the matter has been settled between the parties and a memo of compromise has been made ready.

3. As it is stated that the petitioner is not in a position to appear before this Court as he has been admitted in C.M.C.Hospital, Vellore, for treatment, this Court appointed Ms.S.Saranya as Advocate Commissioner to travel to Vellore and to see that the petitioner puts his signature in her presence. Accordingly, she visited the petitioner at Vellore and explained the details of the memorandum of compromise and he also expressed his willingness by writing "I Accept Divorce", as he is unable to speak. Giving the above details, report has been filed by the advocate commissioner and she also filed the memo of compromise signed by the petitioner along with her report.

4. When the matter is called today, the Advocate Commissioner filed a memo of compromise signed by the petitioner along with her report, giving the details. The petitioner's father Mr.Sasikumar Durai Singh, is present and the respondent is present along with her parents. She has categorically stated that both the parties agreed for divorce by mutual consent.

5. The learned counsel for the respondent has filed a Joint memo of compromise signed by the respondent and counter signed by the respective father.

6. In the memo of compromise it has been categorically stated that the petitioner is suffering from "Myasthenia Gravis". Therefore, the divorce has become imminent and necessary.

7. In view of the above, no useful purpose to serve by keeping O.P.No.92 of 2015 filed by the respondent before the III Additional Family Court, Chennai for divorce. Therefore, exercising power under Article 227 of the Constitution of India suo motu, this Court withdraws the O.P.No.92 of 2015 based on the submission made by the parties and the memo of compromise filed by both the parties, grants decree of divorce by consent and under Section 13(B) of Hindu Marriage Act, dissolving the marriage between the petitioner and the respondent held on 21.06.2013. The above order is passed only to avoid unnecessary waste of time taking into consideration, the young age and also the ailment of the petitioner.

8. In the result, the Transfer Civil Miscellaneous Petition is disposed of, granting decree of divorce as stated above. Consequently, connected Miscellaneous Petition is closed. No costs.

kkd

s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1.The III Additional Family Court, Chennai.

2.The Family Court, Vellore, Vellore District.

+ 1 cc to Mr.K.G.Senthil Kumar, Advocate SR 35649

+ 2 ccs to Mr.S.Giritharan, Advocate SR 36491

scd(co)
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