

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

Tr.C.M.P.No.359 of 2015 and
M.P.No.1 of 2015

Alagammai @ Ananthi ... Petitioner/Defendant

vs.

M.Arun Palaniappan ... Respondent/Plaintiff

Prayer:- Petition filed under Section 24 C.P.C., to withdraw the case in O.S.No.25 of 2015 now pending on the file of the learned I Additional Family Court at Chennai and transfer the same to the file of the Family Court at Trichy.

For Petitioner : Mr.S.Xavier Felix

For Respondent : Mr.S.Balasubramanian

ORDER

The above petition has been filed by the wife seeking transfer of O.S.No.25 of 2015 on the file of the learned I Additional Family Court, Chennai filed by the respondent/husband seeking declaration that the marriage celebrated between the petitioner and the respondent on 02.11.2014 as null and void, as the marriage has not been consummated so far.

2.Considering the young age of the parties and also taking into consideration the alleged non consummation of the marriage, on an earlier occasion, this Court directed both the parties to be present before this Court on 31.07.2015.

3.Today, both the parties are present. The issue has been settled between the parties with the co-operation of the learned counsel for both parties. Both the parties have categorically stated that they are not willing to reunite and hence, they seek a decree of divorce. A memo of compromise signed by both parties has been filed before this Court stating that they have compromised the matter between themselves. A sum of Rs.6 lakhs is paid by the respondent by way of demand draft drawn on Andhra Bank, Saligramam dated 29.07.2015 in

favour of the petitioner as full and final settlement and the same is accepted by the petitioner.

4. In view of the above development, there is no purpose in keeping the transfer petition as well as O.S.No.25 of 2015 filed by the respondent before the Family Court, Chennai as pending. Therefore, this Court suo moto thought it fit to withdraw O.S.No.25 of 2015 pending on the file of the Family Court Chennai, by exercising its power under Article 227 of the Constitution of India and to grant decree of divorce under Section 13(b) of the Hindu Marriages Act. Eventhough the petitioner has got no objection for decreeing the suit in O.S.No.25 of 2015, interest of justice requires to grant the decree of divorce by mutual consent by moulding the prayer and the allegations against each of the parties require to be eschewed.

5. In the result, the Transfer Civil Miscellaneous Petition is disposed of. The suit in O.S.No.25 of 2015 pending on the file of the Family Court Chennai, is withdrawn and accordingly a decree of divorce by mutual consent under Section 13(b) of the Hindu Marriages Act has been granted. The memo of compromise filed by both parties dated 31.07.2015 shall form part of the record. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

(Enclose herewith xerox copy of memo of compromise)

jbm

To

1.The I Additional Family Court,
Chennai.

2.The Family Court,
Trichy.

+1 cc to Mrs.Balasubramanian, Advocate, sr.39474
+1 cc to Mrs.Xavier Felix, Advocate, sr.40121

Tr.C.M.P.No.359 of 2015

tej(co),
kra(17/08)