

THE HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA
-
C.M.A.No.1247 OF 2012
AND
C.M.A.MP.No.972 of 2015

JUDGMENT: (Per Hon'ble Sri Justice R. Subhash Reddy)

This appeal, under Section 28 of the Hindu Marriage Act, 1955, is filed aggrieved by the order, dated 31.08.2012, passed in D.O.P.No.72 of 2010, by the IV Additional District Judge, Kurnool.

The appellant – husband has filed the aforesaid O.P., under Section 13 (1) (ia) of the Hindu Marriage Act, against the respondent - wife, for grant of divorce. The said O.P. was dismissed by the impugned order, dated 31.08.2012, as against which, the present appeal is filed.

During pendency of the appeal, appellant filed C.M.A.MP.No.972 of 2015, under Order XXIII Rule 3 read with Section 151 C.P.C., to record the compromise and allow the appeal by dissolving the marriage performed between himself and the respondent in terms of Memorandum of Compromise annexed to the Miscellaneous Petition.

In the affidavit filed in support of the petition, it is stated that at the intervention of elders and well-wishers, the dispute is settled out of Court and a Memorandum of Compromise is entered into between the parties, as per which, the parties have agreed to dissolve the marriage by mutual consent and the appellant has agreed to pay Rs.3,00,000/- to the respondent towards permanent alimony.

Earlier, a Division Bench of this Court in the case of **In re Jakkula Venkata Ramana Murthy and another**^[1], held that when an appeal is preferred to this Court by either of the spouses and at the appellate stage if they seek a decree for divorce by mutual consent, this Court need not adhere to the statutory time limit enacted in Section 13-B (2) of the Hindu Marriage Act.

When the matter is called, the parties, who are present in person and who have been identified by their respective counsel, have requested to dispose of the appeal in terms of the Memorandum of Compromise annexed to the petition. As per the terms of compromise, appellant has paid Rs.3,00,000/- to the respondent towards permanent alimony and the respondent has acknowledged receipt of the same.

For the aforesaid reasons, C.M.A.MP.No.972 of 2015 is allowed, as prayed for and consequently, the appeal is allowed by setting aside the impugned order, dated 31.08.2012, and by dissolving the marriage performed between the appellant and the respondent in terms of the Memorandum of Compromise. The Memorandum of Compromise shall form part of the decree.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed. No costs.

JUSTICE R.SUBHASH

REDDY

JUSTICE A.SHANKAR

NARAYANA

July 08, 2015
MD

[\[1\]](#) 1992 (3) ALT 381 (D.B.)