

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.11.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

CMSA No.12 of 2013 and
M.P.No.1 of 2013

V.Anandan

...Appellant

versus

R.Sathya

...Respondent

PRAYER: Civil Miscellaneous Second Appeal filed under Section 28 of the Hindu Marriage Act read with Section 100 of the Code of Civil Procedure, against the judgment and appellate decree dated 05.11.2012 made in C.M.A.No.10 of 2011 on the file of learned District Judge, Tiruvannamalai reversing the judgment and decree dated 11.10.2011 passed in HMOP No.109 of 2010 on the file of learned Subordinate Judge, Tiruvannamalai.

For Appellant : Ms.G.Sumithra

For Respondent : Mr.S.Udayakumar

J U D G M E N T

The respondent initiated proceedings for divorce in HMOP No.109 of 2010 against the petitioner on various grounds. The learned Principal Subordinate Judge, Tiruvannamalai, dismissed the original

petition by order, dated 11 October 2011.

2. The order was challenged by the respondent before the learned District Judge, Tiruvannamalai in C.M.A.No.10 of 2011. The Civil Miscellaneous Appeal was allowed by the District Court. The judgment is under challenge in this Civil Miscellaneous Second Appeal at the instance of the respondent in HMOP No.109 of 2010.

3. When this Civil Miscellaneous Second Appeal came up for hearing on 03.11.2016, the learned counsel appearing on behalf of the respective parties made a mention that in case the parties are directed to appear in person before this Court, there is a likelihood of settlement. Accordingly, I have directed the parties to appear in person today.

4. I have heard both the parties in the presence of their respective counsel.

5. The parties after deliberation agreed to settle the matter amicably.

6. The appellant agreed to withdraw all the allegations made by him against the respondent, in the counter affidavit in HMOP No.109 of 2010 and in the Memorandum of Grounds in CMSA No.12 of 2013. Similarly, the respondent agreed to withdraw the entire allegations made against the appellant in her petition in HMOP No.109 of 2010 and in the Memorandum of Grounds in CMA No.10 of 2011. The parties agreed to withdraw the allegations with a view to give a quietus to the entire issue, inasmuch as they are before various Courts for the last six years.

7. In view of the consensus arrived at among the parties to settle the matter, I have directed them to file a Joint Memorandum of Compromise. Accordingly, the parties prepared a Joint Memorandum of Compromise and produced the same before me during the afternoon session.

8. The Joint Memorandum of Compromise, dated 23 November 2016 duly signed by the parties and the respective counsels reads as follows:-

"1.The Respondent/wife had filed HMOP No.109/2010 on the file of Principal Sub Court, Thiruvannamalai for dissolving the marriage between the respondent/wife and the Appellant/husband solemnised on 17.01.2010 at Meenakshi Kalyana Mandapam, Thiruvannamalai. Now both the Appellant/Husband and the Respondent/Wife have mutually agreed to settle the dispute and filing this Joint Compromise on the following agreement:

a) The Respondent/Wife is withdrawing all the allegations made in HMOP No.109/2010 on the file of Principal Sub Court, Thiruvannamalai.

b) The Appellant/Husband is also withdrawing all the allegations made in his counter filed in the HMOP No.109/2010.

c) The Appellant/Husband and the Respondent/Wife are hereby agree that they will not initiate any civil or criminal proceedings against each other in future relating to the allegations made in the HMOP No.109/2010 as both have agreed to withdraw the allegations as per Clause (a) & (b) as stated above.

d)The Appellant/Husband and Respondent/Wife will not make any claim against each other for the present, past or future."

9. The appellant along with his counsel appeared before me for recording the Joint Memorandum of Compromise. According to the appellant, he would not initiate any kind of proceedings against the respondent on account of her withdrawal of the allegations made against him in HMOP No.109 of 2010. Similarly, the respondent, who appeared along with her father and counsel agreed that she would not initiate any proceedings henceforth against the appellant on account of his withdrawal of the allegations made against her. In short, the parties have withdrawn their respective allegations only for the purpose of giving a quietus to the issue. The truth or otherwise of the allegations are not necessary to be looked into by this Court, in view of the settlement arrived at among the parties for the grant of decree of divorce so as to enable them to lead their own life henceforth.

10. There shall be a decree for divorce in terms of the Joint Memorandum of Compromise. In short, the decree of divorce granted by the First Appellate Court is confirmed. Since the parties have agreed that they would not resort to any other proceedings in connection with the marriage or relating to the matrimonial proceedings initiated by them, they are restrained from filing any such proceedings henceforth before any other Courts.

K.K.SASIDHARAN, J.

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11. The Civil Miscellaneous Second Appeal is disposed of as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

23.11.2016

Index : Yes/No

Note : Issue the copy of the order by 07.12.2016

svki

To

1.The Sub-Court, Thiruvannamalai

2. The District Court, Thiruvannamalai

CMSA No.12 of 2013

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