

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

F.C.A.M.P.No. 214 OF 2016

IN/AND

F.C.A.No. 102 OF 2013

DATED 09TH JUNE, 2016

Between:

Patla Srinivasa Rao

... Appellant

AND

Patla Anuradha

... Respondent

Counsel for the appellant

:

Sri K.L.N.Swamy

Counsel for the respondent

:

Sri K.Mohan Rami Reddy

THE COURT MADE THE FOLLOWING

COMMON JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This Family Court Appeal arises out of order and decree dated
10-09-2012 in F.C.O.P.No. 96 of 2011 on the file of the Court of Judge,

Family Court at Secunderabad (for short, 'the trial Court').

2. The appellant filed the above O.P. under Sections 13 (1) (ia) and 13 (1) (ib) of the Hindu Marriage Act, 1956 (for short, 'the Act of 1956'), for dissolution of marriage with the respondent. On a keen contest, the trial Court has dismissed the said O.P. Feeling aggrieved thereby, the petitioner filed this appeal.

3. Thereafter, the appellant has filed F.C.A.M.P.No. 214 of 2016 for grant of decree by mutual consent. Along with this application, the appellant and the respondent have filed a joint compromise memo signed by both parties as well as their counsel incorporating certain terms and conditions, as per which the appellant has agreed to and paid a sum of Rs.8,00,000/- through D.D.No. 684232 dated 25-04-2016 drawn on Indian Overseas Bank, Padmarao Nagar Branch, Secunderabad, towards permanent alimony to the respondent and the respondent has agreed to withdraw M.C.No. 4 of 2011 and D.V.C.No. 16 of 2011 on the file of the Court of Additional Judicial I Class Magistrate, Sangareddy, and C.C.No. 290 of 2011 on the file of the Court of IX Metropolitan Magistrate, Miyapur. Though the custody of the child is not referred to in the memo of compromise, on a specific query put by us, the appellant has categorically and unequivocally stated that he has no claim whatsoever over the custody of his minor son and that the same will be with the respondent. Therefore, they pray for grant of decree for divorce by mutual consent.

4. At the hearing, both the appellant and the respondent are personally present and they have affirmed the compromise between them and they requested for grant of divorce by mutual consent.

5. Though the O.P. was filed under Sections 13 (1) (ia) and 13 (1) (ib) of the Act of 1956, in view of the memorandum of compromise, it is appropriate to treat the said O.P. as the one filed under Section 13 (B) of the Act of 1956 and the minimum period of 6 months stipulated in the said provision after the

marriage was solemnized having already expired, the parties are entitled to decree for dissolution of marriage by mutual consent.

6. Accordingly, the order under appeal is set aside. The O.P. is allowed by granting divorce, by mutual consent under Section 13 (B) of the Act of 1956, in terms of the joint compromise memo filed along with F.C.A.M.P.No. 214 of 2016.

7. F.C.A.M.P.No. 214 of 2016, accordingly, stands allowed and F.C.A.No. 102 of 2013 is disposed of in terms of the joint compromise memo filed along with F.C.A.M.P.No. 214 of 2016.

C.V.NAGARJUNA REDDY, J.

G.SHYAM PRASAD,

J.

Date: 09-06-2016.

JSK