

THE HON' BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI
F.C.A.M.P.No.395 of 2016 in F.C.A.No.133 of 2012 and
F.C.A.No.133 of 2012

COMMON ORDER: (Per Hon'ble Sri Justice Sanjay Kumar)

This appeal under Section 19 of the Family Courts Act, 1984, arises out of the order dated 02.11.2011 passed by the Family Court, Secunderabad, dismissing F.C.O.P.No.356 of 2010 filed by the appellant herein for a divorce under Section 13(1)(ia)and(ib) of the Hindu Marriage Act, 1955. It appears that the respondent-wife filed a counter-claim therein seeking restitution of conjugal rights under Section 9 of the Hindu Marriage Act, 1955, which was allowed by the Family Court.

This Court, while admitting the appeal, granted interim suspension of the order insofar as it directed restitution of conjugal rights. However, the suspension was vacated on 21.11.2012.

While matters stood thus, F.C.A.M.P.No.395 of 2016 was filed in this appeal by the appellant-husband, wherein he stated that the parties settled the matter amicably and that they do not wish to live with each other as they had become incompatible and there was no chance of a reunion. The parties therefore decided that their marriage should be dissolved by mutual consent. A memorandum of compromise in this regard was entered into by and between the parties on 26.09.2016 and it is filed along with the M.P. In terms of the afore-stated memorandum of compromise, both parties agreed to withdraw the allegations and counter allegations made by them against each other and also resolved not to raise any sort of claim or demand against each other. Further, both parties decided to dissolve their marriage voluntarily.

The matter was moved by way of a lunch motion and both the parties are present in Court in person. We have also verified their photo

identity proofs and they were duly identified by their respective counsel. Both the parties stated that they are willing to abide by the memorandum of compromise dated 26.09.2016, which they entered into voluntarily and out of their own free will and choice.

In the light of the afore-stated developments, we see no reason to keep this appeal pending or prolong the litigation between the parties. As the couple have decided to dissolve their marriage by way of mutual consent and have also stated in the memorandum of compromise that there is no chance of reconciliation or reunion, we dispense with the statutory requirement of a six month waiting period.

The appeal is accordingly allowed setting aside the order under appeal and dissolving the marriage between the parties hereto by way of a decree of divorce by mutual consent. The memorandum of compromise dated 26.09.2016 shall form part and parcel of this decree and shall be binding upon the parties. F.C.A.M.P.No.395 of 2016 is ordered.

Pending miscellaneous petitions, if any, in this appeal shall stand closed. No order as to costs.

JUSTICE SANJAY KUMAR

JUSTICE M. SEETHARAMA MURTI

27.09.2016
Vjl