

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2017

CORAM

THE HON'BLE Mr. JUSTICE R.SUBBIAH
&
THE HON'BLE Mr. JUSTICE M.S.RAMESH

C.M.A.No.1455 of 2016

C.Ganesh

... Appellant

Vs.

P.Subhasini

... Respondent

Civil Miscellaneous Appeal filed under Section 19 of Family Court Act praying to set aside the Judgment and decree dated 26.02.2016 in O.P. No.3323 of 2011, passed by the learned Principal Judge, Family Court, Chennai and allow the appeal filed by the appellant granting divorce on the ground of cruelty.

For Appellant : Mr.A.P.Surya Prakasam
For Respondent : Mr.G.Saravanan

J U D G M E N T

(Order of the Court was made by R.SUBBIAH.J)

This appeal has been filed by the appellant/husband against the judgment and decree passed by the learned Principal Judge, Family Court, Chennai dated 26.02.2016 in O.P. No.3323 of 2011.

2.The brief facts of the case which leads to the filing of the present appeal are as follows:

i)The marriage between the appellant and the respondent took place on 05.05.2010 in the Sub Registrar Office, Royapuram, Chennai and thereafter, as per the wishes of the respondent's parents, a reception was performed on 24.05.2010 as per Hindu rites and customs at N.Sadiayappa Thirumana Mandapam, Poonamalle, Chennai.

ii)After marriage, difference of opinion cropped up between the spouses. The respondent suspected the fidelity of the appellant and abused and quarrelled with him frequently. Due to the harassment faced by the appellant, the appellant filed a petition for divorce in O.P.No.3323 of 2011 before the learned

Principal Judge, Family Court, Chennai and the learned Judge taking into consideration the oral and documentary evidence adduced by the parties, dismissed the petition filed by the appellant/husband for divorce on merits on 26.02.2016. Hence, the present petition has been filed by the appellant.

3. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent.

4. When the matter came up before us on 27.04.2017, thought it fit to refer the matter to the Tamil Nadu Mediation and Conciliation Centre attached to this Court for exploring the possibility of an amicable settlement and accordingly, it was referred to the Mediation Centre. Before the Mediation and Conciliation Centre on 05.06.2017 a settlement was arrived at between the parties and pursuant to which, the parties agreed to dissolve the marriage which was solemnized between them on 05.05.2010.

5. It is brought to the notice of this Court that the appellant had paid a sum of Rs.8,50,000/- by way of Demand Draft dated 03.06.2017 bearing No.211824 drawn at Andhra Bank, Maduravoyal Branch, Chennai and a sum of Rs.3,00,000/- by way of Demand Draft dated 05.06.2017 bearing No.700542 drawn at Andhra Bank, Avadi Branch in favour of the respondent and also, Rs.1,50,000/- by way of cash, in total to a sum of Rs.13,00,000/- as permanent alimony to the respondent. The respondent agreed and acknowledged the same. The respondent undertakes to withdraw the case in C.C.No.1200 of 2011 filed by her before the learned III Metropolitan Magistrate, George Town, Chennai. To this effect, a Memorandum of Understanding was executed duly signed by the parties and the respective counsel and the same has also been produced before this Court which reads as follows:

"1. The parties agree to dissolve their marriage solemnized on 24.05.2010 under Hindu Rites and Customs celebrated at N. Sadayappa Thirumana Mahal, 85-A, Bangalore Highway, Poonamallee, Chennai and registered on 05.05.2010, either by Mutual Consent before the appropriate court or by filing Joint Memo of Compromise in CMA 1455/2016 before the Hon'ble High Court, Madras.

2. The parties agree and declare that they are living separately since 08.10.2011.

3. The First Party has this day paid Rs.8,50,000/- (Rupees Eight Lakhs Fifty Thousands only) by way of Demand Draft dated 03.06.2017 bearing no.211824 drawn on Andhra Bank, Maduravoyal branch, Chennai and another Demand

Draft dated 05.06.2017 bearing no.700542 drawn on Andhra Bank Avadi Branch for Rs.3,00,000/- (Three Lakhs Only) in favour of the Second Party and Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only) by way of cash, aggregating in all to Rs.13,00,000/- (Rupees Thirteen Lakhs Only) in favour of the second party as permanent alimony in full quit of all future claims regarding past, present and future maintenance and the second party hereby agrees and acknowledges having received the same.

4.The First Party has returned all the gold jewels and the other movable articles belonging to the Second Party as listed in the Annexure hereto and the parties hereby acknowledge that all the jewels and articles belonging to each other have been duly exchanged between them.

5.The Second Party hereby undertakes to withdraw the case in C.C.No.1200/2011 before the III Metropolitan Magistrate, George Town, Chennai either by compounding the offences or by any other manner as stipulated by the First Party and M.C. 311/2016 before the II Additional Family Court, Chennai.

6.Both Parties agree and undertakes to withdraw all the allegations made against each other and against their respective family members and friends in their respective Legal Notices, Reply Notices, Petitions, Affidavits filed in any Interlocutory applications, complaints and petitions before various courts. Both Parties further undertake not to make any of the allegations withdrawn either by self or friends, relatives, men, agents, servants, assigns or through any other person against each other in future and not to interfere in their private life through any matter including social media like Whatsapp, Twitter, Facebook etc.

7.The Second Party has no further claims for any articles, jewels or any other movable articles and towards maintenance for the past, present and future towards alimony against the First Party or any member of his family. The First Party also states that he has no claim against the Second Party from this day.

8.These consent terms are agreed and accepted to be filed as terms of consent before the Mediation Center, the Honble High Court, Madras by the Parties. The Parties have signed this Deed of MOU out of their free will and volition and shall

be irrevocably binding on them and their respective heirs, executors and administrators.

9. There is no claim or counter claim between the Parties arising out of the marriage between themselves for this day."

6. In view of the settlement arrived at between the parties, this Court allows the Civil Miscellaneous Appeal by setting aside the judgment and decree dated 26.02.2016 and consequently, O.P.No.3323 of 2011 is allowed by granting a decree of divorce dissolving the marriage solemnized between the parties and registered on 05.05.2010. The memorandum of Understanding dated 05.06.2017 shall form part of this judgment and decree. There shall be no order as to costs.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

DP

To

1.The Principal Judge,
(Family Court), Chennai.

2.The IInd Additional Judge,
Family Court, Chennai.

3.Metropolitan Magistrate, George, Town,
Chennai.

+1cc to M/S.A.P.Suryaprakasam, Advocate Sr. 42555

+1cc to M/S.G.Saravanan, Advocate Sr. 42658

C.M.A.No.1455 of 2016

RR(CO)

VR(18/8/2017)