

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

Civil Miscellaneous Appeal No. 13 of 2015

M. Saravananaravi

.. Appellant

Versus

K. Santhi

.. Respondent

Appeal filed under Section 19 of the Family Courts Act, 1984 against the Fair and Decretal Order dated 30.10.2013 made in F.C.O.P. No. 127 of 2009 on the file of Family Court, Salem.

For Appellant
For Respondent

: Mr. R. Thiagarajan
: Ms. A. Srividhya

JUDGMENT**(JUDGMENT OF THE COURT WAS DELIVERED BY R. SUBBIAH, J)**

सत्यमेव जयते

The appellant is the husband and the respondent is the wife. The marriage between the appellant and the respondent was solemnised on 07.12.2000 as per Hindu rites and customs. Due to such wedlock between the appellant and the respondent, a male child was born on 25.05.2002 and named as Dheeraj. As there was misunderstanding between the appellant and the respondent during the course of their matrimonial life, the appellant has filed FCOP No. 127 of 2009 before the Family Court, Salem under Section 13 (1) (i-a) of the Hindu Marriage Act, 1955 for dissolution of the marriage. On conclusion of trial, the Family Court, Salem, by the

Order dated 30.10.2013, dismissed the Original Petition filed by the appellant. Aggrieved by the same, the appellant-husband has come up with this appeal.

2. Today, when the appeal is taken up for hearing, the learned counsel for the appellant and the respondent brought to the notice of this Court that the appellant and the respondent have entered into a Joint Memo of Compromise on 28.07.2017 and settled their dispute amicably. We have perused the Joint Memo of Compromise dated 29.07.2017 and it was signed by the appellant and the respondent. The relevant portion of the Joint Memo reads as follows:-

“3. It is humbly submitted that due to the passage of time and to bring quietus to the issue, the respondent herein has resolved not to contest the present appeal in C.M.A. No. 13 of 2015.

4. It is humbly submitted that this Honourable Court may treat the Memorandum of Compromise filed herewith, as part and parcel of this affidavit and consequently this Honourable Court may treat this Memorandum of Compromise as part of Decree in this appeal.

It is therefore prayed that this Honourable Court may be pleased to allow this Civil Miscellaneous Appeal in C.M.A. No. 13 of 2015 by setting aside the Judgment and Decree in FCOP No. 127 of 2009 on 30.10.2013 passed by the learned Family Court, Salem by granting divorce between the appellant and the respondent as per the Memorandum of Compromise dated 28.07.2017 arrived at between them and thus render justice.”

3. On perusal of the records, we find that both the appellant and the respondent are living separately atleast for the past eight years and this satisfy the requirements for granting a decree of divorce. Therefore, we are inclined to grant a decree of divorce by setting aside the fair and decreetal order dated 30.10.2013 passed by the Family Court, Salem in FCOP No. 127 of 2009 in terms of the Joint Memorandum of Compromise dated 28.07.2017 filed by the appellant and the respondent.

5. In the result, the Fair and Decretal Order dated 30.10.2013 passed in FCOP No. 127 of 2009 on the file of Principal Family Court, Salem is set aside. The Civil Miscellaneous Appeal is allowed by granting a decree of divorce dissolving the marriage solemnised between the appellant and the respondent on 07.12.2000 in terms of the Joint Memorandum of Compromise dated 28.07.2017 entered into between the appellant and the respondent. The Joint Memorandum of Compromise dated 28.07.2017 shall form part of the records. No costs.

(R.P.S.J.,) (A.D.J.C.J.)

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Index : Yes / No

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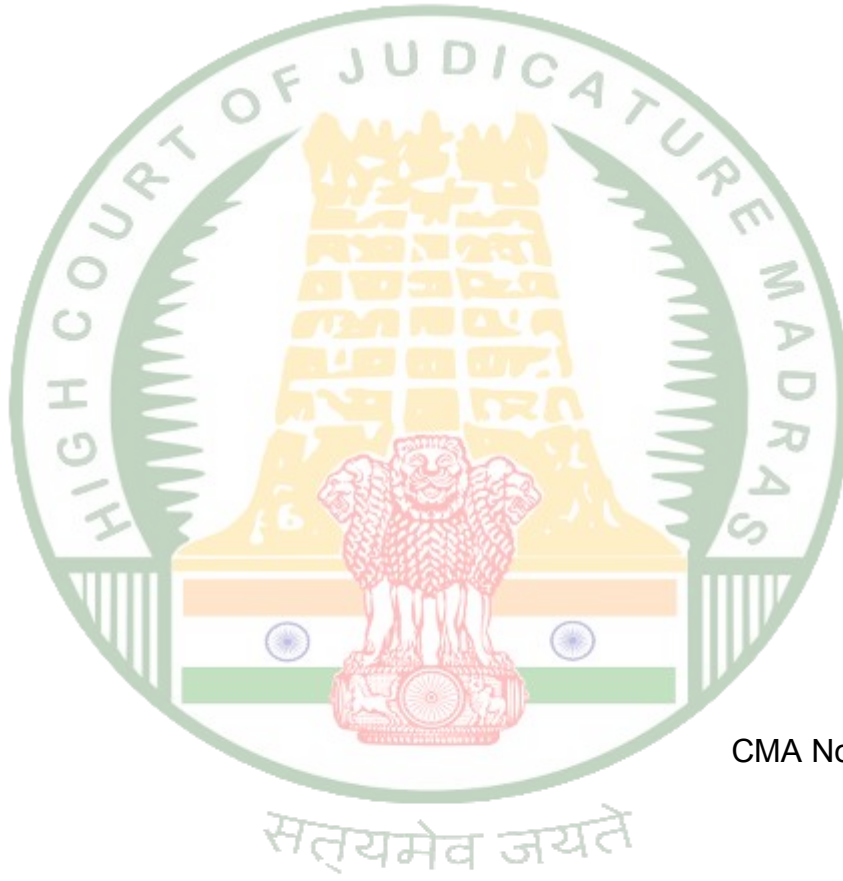
The Presiding Officer
Family Court, Salem



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R. SUBBIAH, J
and
A.D. JAGADISH CHANDIRA, J

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