

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2017

CORAM:

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

Civil Miscellaneous Appeal No. 1615 of 2017
and
C.M.P. No. 8560 of 2017

1. S.P. Sheela
2. Minor. Janani
represented by her mother and
natural guardian S.P. Sheela .. Appellants

Versus

Dr. Hariprasad .. Respondent

Appeal filed under Section 19 of the Family Courts Act, 1984 against the Fair Order and Decretal Order dated 22.02.2016 passed in I.A. No. 342 of 2012 in M.O.P. No. 339 of 2011, as amended as per Order in I.A. No. 296 of 2010 dated 18.04.2016 on the file of Family Court, Pondicherry.

For Appellants : Mr. R. Saseetharan
For Respondent : Mrs. Elizabeth Ravi

JUDGMENT

(Judgment of the Court was delivered by **R. SUBBIAH, J**)

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The appellants are the wife and minor daughter of the respondent. The marriage between the first appellant and the respondent was solemnised on 02.09.2009 and due to the wedlock, the second appellant was born on 22.08.2010. During the matrimonial relationship between the first appellant and the respondent, difference of opinion has cropped up and ultimately the respondent herein has filed a Petition in MOP No. 339 of 2011 on the file of the learned Family Judge,

Puducherry for dissolution of the marriage dated 02.09.2009 on the grounds of cruelty. Pending MOP No. 339 of 2011, the appellants have filed I.A No. 342 of 2012 in M.O.P. No. 339 of 2011 under Section 24 of The Hindu Marriage Act praying to direct the respondent to pay a sum of Rs.30,000/- per month towards interim maintenance. The Family Court, by an order dated 22.02.2016 has directed the respondent to pay a sum of Rs.10,000/- per month towards interim maintenance to the appellants from the date of the filing of IA No. 342 of 2012 till the disposal of MOP No. 339 of 2011. Not satisfied with the quantum of maintenance amount ordered by the court below, the appellants have filed the present Appeal seeking enhancement of the interim maintenance amount.

2. Today, when the appeal is taken up for hearing, the learned counsel for both sides brought to the notice of this Court that the first appellant as well as the respondent herein have arrived at a compromise to settle the matrimonial dispute among them. They have also produced a Memo of Compromise entered into between the first appellant and the respondent duly signed by them along their respective counsel. The Memo of Compromise reads as follows:-

“(a) The first appellant and the respondent agreed to have their marriage dissolved, by mutual consent.

(b) The appellants agree to receive a sum of Rs.28,00,000/- (Rupees Twenty Eight Lakhs Only) in full and final settlement towards all their future claims, fixed at Rs.14,00,000/- (Rupees Fourteen Lakhs Only) each, by way of lump sum payment, as permanent maintenance.

(c) The respondent shall pay the first appellant by taking a demand draft in the name of the first appellant for a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) drawn on any scheduled bank either Nationalised or private, and shall deliver over the same to the first appellant, on 06.09.2017, at the time of the presentation of the petition for mutual consent.

(d) The balance amount of Rs.4,00,000/- (Rupees Four Lakhs Only) payable by the respondent to the 1st appellant, shall be paid by the respondent to the 1st appellant, by taking a demand

draft in the name of the 1st appellant, drawn on any scheduled bank either Nationalised or private, and shall deliver over the same to the first appellant, at the time of passing of decree of divorce, after adopting all the formalities as required under Section 13-B of the Hindu Marriage Act.

(e) The sum of Rs.14,00,000/- payable by the respondent to the 2nd appellant shall be taken by way of a demand draft in the name of the minor 2nd appellant, drawn on any scheduled bank either Nationalised or private, and shall deliver over the same to the second appellant, at the time of passing the decree of divorce.

(f) The 1st appellant shall deposit the demand draft for Rs.14,00,000/- in the name of the 2nd appellant, in a fixed deposit, in any Nationalised Bank, under any scheme, most favourable to the 2nd appellant, till the 2nd appellant attains majority on 22.08.2028.

(g) It is open to the 1st appellant to withdraw the accrued interest alone from time to time for the education and maintenance of the 2nd appellant and equally, it is upto the 1st appellant not to withdraw any interest and allow it to be accumulated, till the fixed deposit gets matured.

(h) Upon the attainment of majority by the 2nd appellant on 22.08.2028, the 2nd appellant shall be at liberty to use the above amounts so deposited, in the manner, she prefers to do so.

(i) The 1st appellant as well as the 2nd appellant shall not claim any other amount from the respondent, either as maintenance, or enhanced claim or any other mode of claim, whatever may be the circumstances, and the appellants hereby waive and give up all their future maintenance and other such property rights of the respondent, if any to be acquired by the respondent, in future, subject to the payment of the respondent to them, as agreed supra.

(j) The parties hereto have no mutual claim whatsoever, as against any one or more of them, as none of the parties hereto are in possession of any properties belonging to the others.

(k) The 1st appellant and the respondent are at liberty, as they may be advised, to move the Trial Court, for getting their marriage dissolved by the decree of mutual consent, either by getting the present petition in MOP No. 339 of 2011 now pending on the file of the Family Court, Puducherry, amended and converted into a Petition for mutual consent or by filing a separate Joint Petition, as may be required under Section 13-B of the Hindu Marriage Act.

(l) The 1st appellant and the respondent hereby withdraw all their allegations made against each other, unconditionally, and the 1st appellant shall get the matter now pending in C.C. No. 65 of 2012, on the file of the Chief Judicial Magistrate, Puducherry, closed, by compounding it in accordance with law and the procedure.

(m) The custody of the 2nd appellant shall be with the 1st appellant, till the 2nd appellant attains majority, but the 1st appellant

was not ready to provide with facilities to the respondent to visit the 2nd appellant, and so, for the purpose of this compromise, the respondent is foregoing his right to visit the 2nd appellant.

3. In the light of the Memorandum of Compromise dated 17.08.2017 entered into between the 1st appellant and the respondent, we are of the view that the order passed by the court below granting interim maintenance to the appellants need not be interfered with. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the order passed by the Court below. No costs. Consequently, connected miscellaneous petition is closed. The Memorandum of Compromise dated 17.08.2017 entered into between the first appellant and the respondent shall form part of the records.

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

17-08-2017

rsh

Index : Yes / No

To

The District Judge
Family Court
Pondicherry

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