

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE P. VELMURUGAN

Civil Miscellaneous Appeal Nos. 1927 and 1928 of 2017

Heena K. Adroja .. Appellant in both the appeals

Versus

B.J. Bikram Singh .. Respondent in both the appeals

C.M.A. No. 1927 of 2017:- Appeal filed under Section 19 of the Family Courts Act against the Order dated 19.02.2016 made in O.P. No. 1736 of 2003 on the file of III Additional Principal Family Judge, Chennai.

C.M.A. No. 1928 of 2017:- Appeal filed under Section 19 of the Family Courts Act against the Order dated 19.02.2016 made in I.A. No. 2631 of 2011 in I.A. No. 1647 of 2006 in O.P. No. 1736 of 2003 on the file of III Additional Principal Family Judge, Chennai.

For Appellant : Mr. B.S. Jothimanian
in both the appeals

For Respondent : Mrs. K. Sumathi
in both the appeals

COMMON JUDGMENT

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

Both these appeals are filed by the appellant/wife aggrieved by the common order dated 19.02.2016 passed by the learned III Additional Principal Family Judge, Chennai. While C.M.A. No. 1927 of 2017 has been filed as against the Order dated 19.02.2016 made in O.P. No. 1736 of 2003 allowing the Petition filed

by the husband/respondent herein for dissolution of the marriage, C.M.A. No. 1928 has been filed as against the order passed by the Court below directing the respondent to pay a sum of Rs.9,000/- per month as monthly maintenance.

2. The marriage between the respondent and the appellant was solemnised on 24.07.2001 at Shri Ramachandra Mission Yogashram, Dharapuram Road, K. Chettipalayam, Muthanapalayam Village, Tiruppur Taluk, Coimbatore District as per Hindu rites and customs. After the marriage, a formal reception was conducted at Chennai on 27.07.2001. The respondent and the appellant commenced their matrimonial life at the residence of the respondent at Chennai. Due to serious matrimonial dispute, the appellant left the matrimonial home on 05.07.2003 and thereafter, both the respondent and the appellant were residing separately. In such circumstances, the respondent has filed O.P. No. 1736 of 2003 under Section 13 (1) (i-a) of The Hindu Marriage Act for dissolution of the marriage solemnised between the respondent and the appellant on 24.07.2001. The appellant contested the Original Petition by filing a counter affidavit. Thereafter, the appellant has filed I.A. No. 1647 of 2006 under Section 24 of The Hindu Marriage Act for a direction to direct the respondent to pay maintenance, in which the Family Court passed an order directing the respondent to pay a sum of Rs.2,250/- per month. Aggrieved by the same, the appellant has filed C.M.A. No. 617 of 2007 before this Court and this Court, by order dated 11.07.2011, enhanced the maintenance amount payable by the respondent from Rs.2,250/- to Rs.5,000/-. Thereafter, the respondent has filed I.A. No. 2631 of 2011 in I.A. No. 1647 of 2006 praying to direct the respondent to pay enhanced maintenance of Rs.20,000/- per

month.

3. Before the Family Court, in O.P. No.1736 of 2003, the respondent examined himself as PW1 and Exs. P1 to P4 were marked. On the side of respondent, the respondent examined herself as RW1 along with one Chaitanya as RW2 and Exs. R1 to R6 were marked. In I.A. No. 2631 of 2011 in I.A. No. 1647 of 2006, the appellant examined herself as PW1 but no document was marked. On the side of the respondent, the respondent examined himself as RW1 and Exs. R1 to R8 were marked. The Family Court, on appreciation of the oral and documentary evidence, by common order dated 19.02.2016 allowed O.P. No. 1736 of 2003 filed by the respondent thereby dissolved the marriage solemnised between the respondent and the appellant. By the same order dated 19.02.2016, the Family Court allowed I.A. No. 2631 of 2011 in I.A. No. 1647 of 2006 and enhanced the maintenance amount payable by the respondent from Rs.5,000/- to Rs.9,000/- per month. As against the common order dated 19.02.2016 passed by the Family Court, the appellant/wife ha filed these two appeals.

4. Today, when the appeals are taken up for hearing, it is submitted by the counsel for both sides that the appellant and the respondent have entered into a Joint Memorandum of Compromise dated 21.09.2017 agreeing to settle the matrimonial dispute between them. A copy of the Memorandum of compromise dated 21.09.2017 has been produced for our perusal. The relevant portion of the Memo of Compromise reads as follows:-

settlement of all the claims of the Appellant towards maintenance and permanent alimony, past, present and future. The appellant agrees to receive the same in full and final quit of all her claims as one time settlement and declares that she shall not file any petition claiming any amount from the respondent towards past, present and future maintenance and or alimony. She declares that she shall withdraw all the pending applications filed by her claiming maintenance and arrears of maintenance in view of this one time settlement of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only)

(2) The appellant and the respondent declare that they shall not be entitled to any claim any right or share in any movable or immovable property that they own presently or may acquire in future either by purchase or inheritance or in any other manner known to law.

(3) The appellant and the respondent declare that they have mutually exchanged all the articles and they have no claim against the other in respect of articles, materials, testimonials, jewellery, silverware, household articles, electronic gadgets, clothes etc.,

(4) The appellant and the respondent declare that the appellant is aware that the respondent is re-married and she shall not challenge the same in any manner.

(5) The appellant declares that she shall withdraw the appeals in C.M.A. No. 1927 of 2017 and C.M.A. No. 1928 of 2017 on the receipt of the sum of Rs.25,00,000/- from the respondent i.e., on 23.10.2017 on which date the respondent undertakes to pay the entire amount. The appellant also undertakes to withdraw O.P. No. 3041 of 2012 now pending on the file of the Honourable III Additional Family Court, Chennai on the very next hearing in the III Additional Family Court, Chennai.

(6) The appellant undertakes to withdraw Contempt Petition S.R. No. 2862 of 2017 now pending for maintainability before the Honourable High Court. The appellant and the respondent declare that they have not filed any other case either civil or criminal complaint and shall not file any civil or criminal case in the future against the other or their family members before any other forum and they shall not pursue the same and withdraw it forthwith, if already filed in view of this compromise.

(7) The appellant and respondent declare that there is no collusion or connivance in filing this Memorandum of Compromise and the consent has not been obtained by threat, force, coercion, undue influence or fraud."

7. In the light of the above compromise memo entered into between the

appellant and the respondent and the fact that the appellant and the respondent are residing separately since 05.07.2003, for the past 14 years, which period satisfy the ingredients for granting a decree of divorce, we confirm the order dated 19.02.2016 made in O.P. No. 1736 of 2003 and in I.A. No. 2631 of 2011 in I.A. No. 1647 of 2006 in O.P. No. 1736 of 2003 on the file of III Additional Principal Family Judge, Chennai. The Civil Miscellaneous Appeals are dismissed by recording the Joint Memo of Compromise dated 21.09.2017 entered into between the appellant and the respondent. No costs.

(R.P.S.J.,) (P.V.J.,)

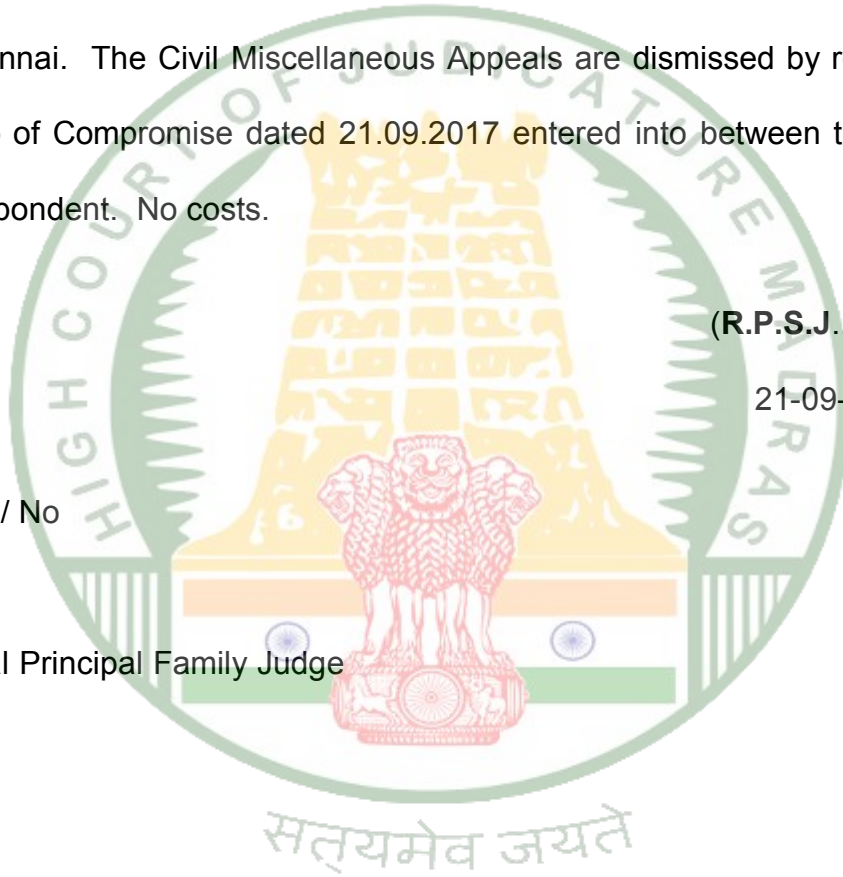
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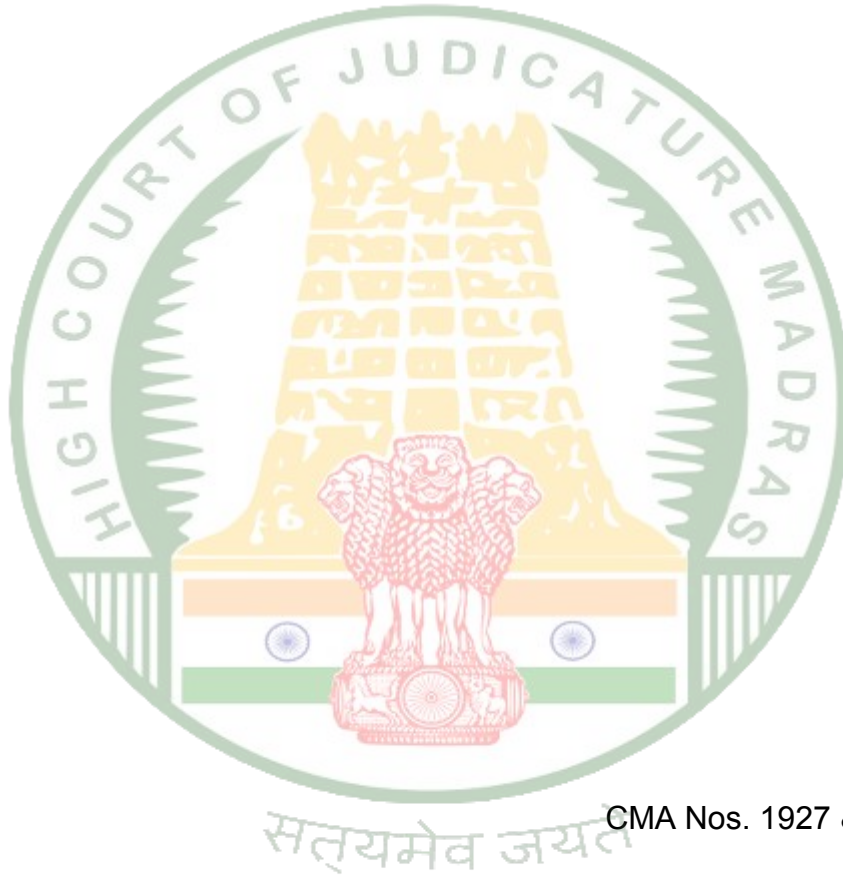
III Additional Principal Family Judge
Chennai



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R. SUBBIAH, J
and
P. VELMURUGAN, J

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