

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2017

CORAM:

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

Civil Miscellaneous Appeal No. 842, 843 and 2117 of 2016

Tharanilakshmi @ Tanuja ... Appellant in all the appeals

Versus

G. Muthukrishnan ... Respondent in all the appeals

CMA No. 842 of 2016:- Appeal filed under Section 19 of the Family Courts Act, 1984 against the Decree and Judgment dated 02.03.2016 made in O.P. No. 323 of 2007 on the file of the II Additional Family Court, Chennai

CMA No. 843 of 2016:- Appeal filed under Section 19 of the Family Courts Act, 1984 against the Decree and Judgment dated 02.03.2016 made in O.P. No. 3380 of 2007 on the file of the II Additional Family Court, Chennai

CMA No. 2117 of 2016:- Appeal filed under Section 19 of the Family Courts Act, 1984 against the Decree and Judgment dated 02.03.2016 made in I.A. No. 1845 of 2012 in O.P. No. 323 of 2007 on the file of the II Additional Family Court, Chennai

For Appellant : Mr. R. Karunagarah  
in all the appeals

For Respondent : Mr. G. Ravikumar  
in all the appeals

COMMON JUDGMENT

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

All these appeals arise out of a common Decree and Judgment dated 02.03.2016 passed by the learned II Additional Judge, Family Court, Chennai. The parties to these appeals are one and the same and therefore, all these appeals are taken up for hearing together and are disposed of by this common judgment.

2. The first appeal in C.M.A. No. 842 of 2016 arise out of the Decree and Judgment passed in O.P. No. 323 of 2007. The said Original Petition was filed by the husband/respondent herein under Section 13 (1) (i-a) of The Hindu Marriage Act for dissolution of the marriage solemnised between him and the appellant on 22.05.1996. The Family Court allowed the Original Petition and dissolved the marriage solemnised between the

appellant and respondent by granting a decree of divorce. Aggrieved by the same, the appeal in C.M.A. No. 842 of 2016 has been filed by the wife/appellant.

3. While dissolving the marriage solemnised between the appellant and the respondent, by the very same decree and Judgment dated 02.03.2016, the Family Court dismissed the Petition filed by the wife/appellant under Section 9 of The Hindu Marriage Act for restitution of conjugal rights. Aggrieved by the same, the appellant has filed C.M.A. No. 843 of 2016.

4. The appellant has filed the C.M.A. No. 2117 of 2016 aggrieved by the Judgment and decree dated 02.03.2016 passed by the learned II Additional Judge, Family Court, in and by which, the Family Court partly allowed the I.A. No. 649 of 2008 in OP No. 323 of 2007 filed by her directing the husband/respondent to pay a sum of Rs.1,000/- per month to her towards interim maintenance from the date of the petition. Thus, C.M.A. No. 2117 of 2016 has been filed by the wife/appellant seeking enhancement of maintenance amount.

5. Today, when these appeals are taken up for hearing, the learned counsel for both sides submit that the appellant and the respondent have resolved the matrimonial dispute among themselves and to that effect, they have entered into a Memorandum of Understanding dated 16.08.2017 duly signed by the appellant, respondent and their respective counsel. The relevant portion of the Memorandum of Understanding dated 16.08.2017 reads as follows:-

"3. The appellant and the respondent submits that in view of the mediation initiated by this Honourable Court as well as mutual agreement between them, the appellant and the respondent are filing this joint memo.

4. The appellant and the respondent submits that the respondent herein agreed to pay a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) as permanent alimony/maintenance to the appellant herein. The appellant has also agreed to receive the said amount as permanent alimony and the appellant is undertaking to withdraw the permanent alimony case pending in M.C. No. 624 of 2015 on the file of the learned II Additional Family Court, Chennai, forthwith.

5. The appellant and the respondent submits that they have been living separately from 01.04.2007. The respondent is living with two daughters namely Mithuna and Nivetha from 04.01.2017 and now they are aged about 20 years and 17 years respectively.

6. The appellant and the respondent submits that all the articles belonging to the appellant are with her and the respondent also states that no valuables/jewels belonging to the appellant is lying with the respondent. There is no claim

between the appellant and the respondent with respect to the moveable or immoveable properties in future also.

7. The appellant and the respondent submits that there is no collusion or undue influence in filing this joint memo.

8. The appellant and the respondent submit that in full and final settlement of all claims with respect to past and future maintenance/alimony, the appellant has agreed to accept a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) from the respondent. The schedule of payment is as follows:-

(a) Rs.5,00,000/- (Rupees Five Lakhs Only) to be paid on 31.08.2017 by the respondent to the appellant herein by way of cheque No.119103

(b) Rs.10,00,000/- (Rupees Ten Lakhs Only) to be paid on 15.10.2017 by the respondent to the appellant herein, by way of cheque No. 119604

(c) Rs.10,00,000/- (Rupees Ten Lakhs Only) to be paid on 15.12.2017 by the respondent to the appellant herein, by way of cheque No. 119605, drawn on ICICI Bank, Mount Road Branch, Chennai - 600 006.

6. In the light of the Joint Memorandum of Compromise dated 16.08.2017 entered into between the appellant and the respondent, settling the matrimonial dispute among themselves and the fact that the appellant and the respondent are living separately for the past more than seven years from 04.01.2007, we are of the opinion that the Common Decree and Judgment passed by the Family Court, Chennai, against which the present appeals are filed, is liable to be confirmed.

7. Accordingly, we confirm the common Decree and Judgment dated 02.03.2016 passed by the learned II Additional Judge, Family Court, Chennai. Resultantly, all the appeals are dismissed. No costs. The Joint Memorandum of Compromise filed by the appellant and the respondent shall form part of the records. Consequently, connected CMP Nos. 6895, 6896 and 15311 of 2016 are closed.

Sd/-  
Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

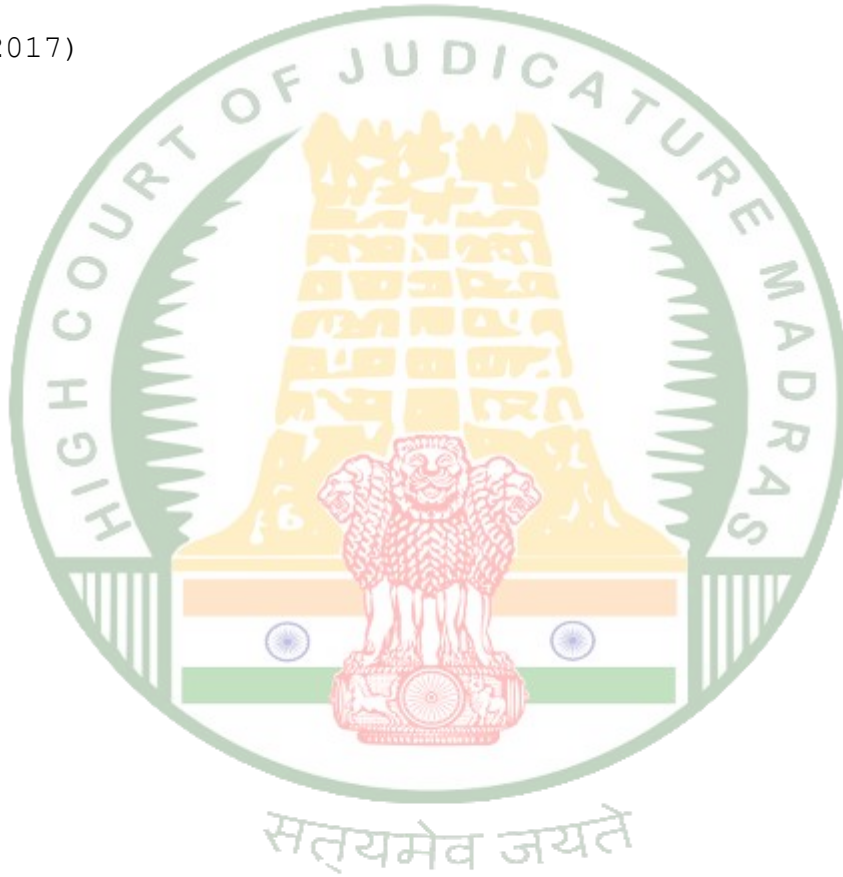
To

The II Additional Family Court  
Chennai

+ 3 ccs to Mr.G. Ramkumar, Advocate Sr.59441

CMA Nos. 842, 843 & 2117/2016

LRS (CO)  
EU (27/11/2017)



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