

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.11.2017

Coram

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

C.M.A.No.731 of 2017
and
C.M.P.Nos.6562 and 6563 of 2017

Deepak Saagar Kalaikadal
J.Ishwarya ... Appellants

This Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act, 1984, against the order dated 13.07.2016 passed by the First Additional Principal Family Court, Chennai, in O.P.No.361 of 2016.

For Appellants: Mr.P.Sankaranarayanan
for 1st Appellant
Ms.S.Jayakumari
for 2nd Appellant

JUDGMENT

(Judgment of the Court was passed by A.SELVAM.J.)

This Civil Miscellaneous Appeal has been preferred against the dismissal order dated 13.07.2016, passed in O.P.No.361 of 2016, by the I Additional Family Court, Chennai.

2.One of the appellants, as petitioner, has filed O.P.No.361 of 2016, on the file of the trial Court under Section 12(1)(a) of the Hindu Marriage Act, 1955, wherein, the other appellant has been arrayed as sole respondent.

3.During pendency of O.P.No.361 of 2016, both the petitioner and respondent have been directed to go for Mediation and Conciliation Center and accordingly, both of them have attended Mediation, wherein a compromise has been entered into to annul their marriage. But the trial Court, without considering the terms of compromise and also the decision taken by both the petitioner and respondent, has dismissed O.P.No.361 of 2016. Under such circumstances, the present Civil Miscellaneous Appeal has been filed.

4.The learned counsel appearing for both the appellants have uniformly contended to the effect that despite of compromise entered into between the appellants and a compromise memo has been filed, the trial Court has erroneously dismissed O.P.No.361 of 2016 and therefore, the order passed by the trial Court is liable to be set aside.

5.It is seen from the records that both the appellants (petitioner and respondent) have attended Mediation and Conciliation Center, where, they have taken a decision to annul their marriage solemnized on 18.11.2015 and to that effect a detailed joint memo has also been filed.

6.As rightly pointed out by the learned counsel appearing for both the appellants, the trial Court has not at all considered the same and erroneously dismissed O.P.No.361 of 2016. Under such circumstances, the order passed by the trial Court is liable to be set aside and the matter is liable to be remitted to the file of the trial Court to pass suitable order, in accordance with the terms of compromise.

In fine, this Civil Miscellaneous Appeal is allowed without cost and the order dated 13.07.2016, passed in O.P.No.361 of 2016, by the trial Court is set aside and O.P.No.361 of 2016 is remitted to the file of the trial Court. The trial Court is directed to issue notice to both parties and after their appearance, pass suitable orders, in accordance with the terms of compromise within a period of two months. Connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

msk
To

The First Additional Principal Family Court,
Chennai

+2 Ccs to Mr. P. Sankara Narayanan, Advocate sr 81111.
Copy to

The Section officer
VR section, High Court, Madras (2 Copies)

C.M.A.No.731 of 2017

SP(11/12/2017)