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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Review Application No. 144 of 2017

Rathiha

... Petitioner/Appellant

Versus

Jeyaprakash Narayanan

... Respondent/Respondent

Review Application filed under Order XLVII Rules 1 and 2 of Code of Civil Procedure read with Section 114 of the Code of Civil Procedure Appeal to review the Order dated 28.04.2017 passed in C.M.A. No. 1320 of 2012.

For Appellant : Ms. R. Sankaranarayanan, Senior Advocate
for Ms. K. Sumathi
For Respondent : Mr. K. Balasubramaniam

ORDER

(Order of the Court was made by R. SUBBIAH, J)

This review application is filed to review the order dated 28.04.2017 passed in C.M.A. No. 1320 of 2012, whereby, this Court, while recording the compromise memo dated 26.04.2017 entered into between the petitioner and the respondent, confirmed the decree of divorce granted by the II Additional Family Court, Chennai in OP No. 64 of 2007, dissolving the marriage solemnised between the petitioner and the respondent on the ground of cruelty.

2. The present review application has been filed by the petitioner mainly on the ground that in the joint memorandum of compromise dated 26.04.2017, it was agreed between the petitioner and the respondent that the marriage solemnised between them shall be declared by a decree of mutual consent by setting aside the decree of divorce granted by the Family Court



on the ground of cruelty. However, while passing the Judgment dated 28.04.2017, in para No.4, this Court, while recording the compromise memo, refused to set aside the decree of divorce granted by the Family Court on the ground of cruelty.

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3. We have heard the learned Senior counsel appearing for the petitioner and the learned counsel for the respondent. According to the learned Senior counsel for the petitioner, when the appeal was disposed of by recording the terms and conditions entered into between the petitioner and the respondent in the compromise memo dated 26.04.2017, refusing to set aside the decree of divorce granted by the Court below on the ground of cruelty has caused prejudice to the petitioner and it has to be reviewed.

4. The learned counsel appearing for the respondent submits that the respondent is a party to the compromise memo dated 26.04.2017 and that he has no objection for allowing the review application as prayed for.

5. Having regard to the submission made by the counsel for both sides, we are of the view that Para No.4 of the Judgment dated 28.04.2017 passed in C.M.A. No. 1320 of 2012 is required to be reviewed. Accordingly, para No.4 of the Judgment dated 28.04.2017 is modified and it shall be read as follows:-

4. It is evident from the terms of the Memo of Compromise that the appellant and the respondent pray this Court to set aside the Decree and Judgment passed by the Family Court dissolving their marriage on the grounds of cruelty and desertion and to grant divorce on the ground of mutual consent. Accordingly, the decree dated 22.03.2012 passed in O.P. No. 64 of 2007 on the file of II Additional Family Court, Chennai is set aside, instead, there will be a decree of divorce, dissolving the marriage solemnised between the petitioner and the respondent on 09.10.2005, by mutual consent. The Compromise Memo dated 26.04.2017 entered into between the petitioner and the respondent shall form part of the records."



6. Accordingly, the Review Application is allowed. No costs.

* xerox copy of Memo compromise Enclosed

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rsh

To

The II Additional Family Court
Chennai

+1cc to Mr.K.Balasubramaniam, Advocate, S.R.No.59471

+1cc to Mr.K.Sumathi, Advocate, S.R.No.59627

Rev.Appln. No. 144 of 2017

RSI (CO)
GSP (25/10/2018)