

IN THE JUDICATE OF MADRAS HIGH COURT

DATE : 18.07.2017

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THE HON'BLE MR.JUSTICE R.SUBBIAH

and

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.M.A.No.3234 of 2013 and C.R.P. (PD) .No.3797 of 2013
and

M.P.No.1 of 2013 & C.M.P.No.9084 of 2016
in C.M.A.No.3234/2013

and

M.P.No.1 of 2013 & C.M.P.No.9617 of 2016 in C.R.P. (PD) .
No.3797/2013

G.Ammulakshmi ... Appellant in CMA & Respondent in CRP

Vs.

R.Gnanasekaran ... Respondent in CMA & Petitioner in CRP

Civil Miscellaneous Appeal has been filed under Section 19 of the Hindu Marriage Act and Civil Revision Petition has been filed under Article 227 of the Constitution of India, as against the order dated 25.07.2013 in I.A.No.287 of 2012 in H.M.O.P.No.243 of 2011 passed by the learned Subordinate Judge, Poonamallee.

Appearance_

Mr.M.G.Rajeshwari - for Appellant in CMA & respondent in CRP

Mr.B.Gandhi - for respondent in CMA and petitioner in CRP

COMMON JUDGMENT

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

Not being satisfied with the quantum of interim maintenance ordered passed by the Sub-Judge, Poonamallee vide order dated 25.07.2013 in I.A.No.287 of 2012 in H.M.O.P.No.243 of 2011, the wife has filed the present appeal.

2.Similarly, aggrieved over the quantum of interim maintenance ordered by the Sub-Judge, Poonamallee, the husband has filed the Civil Revision Petition.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The respondent in the appeal/husband has filed H.M.O.P.No.243 of 2011 on the file of the Sub-Judge,

Poonamallee, against the appellant/wife under Section 9 of the Hindu Marriage Act, for restitution of conjugal rights. In the said HMOP, the appellant herein/wife has filed a petition in I.A.No.287 of 2012 seeking for a direction to the respondent/husband to pay interim maintenance as follows_

a)interim maintenance to the appellant/wife and her minor son namely G.Jaivant at the rate of Rs.10,000/- each.

b)pay a sum of Rs.40,000/- towards the M.B.A. Fess and expenses to the appellant

c)pay a sum of Rs.20,000/- towards litigation expenses to the appellant

d)pay a sum of Rs.40,000/- towards the pre-KG School Fess for the minor child G.Jaivant.

4.The Court below, after considering the evidence on record, by order dated 25.07.2013, directed the respondent/husband to pay a sum of Rs.5,000/- each per month towards interim maintenance, from the date of the petition and also to pay another sum of Rs.5,000/- towards litigation expenses. Not being satisfied with the same, the wife has filed the present appeal. Aggrieved over the order passed by the Court below, the respondent/husband has filed the present Civil Revision Petition.

5.Today, when the matter is taken up for consideration, the learned counsel on either side filed a joint Memo of Understanding, dated 18.07.2017, duly signed by both the parties. The terms and conditions mentioned in the joint Memorandum of Understanding are as follows_

"1.both the parties have decided to file a petition for divorce by mutual consent and had today signed the petition along with MOU.

2.the party of the first part (Gnanasekaran/husband) agreed to pay an amount of Rs.10 lakhs to the party of the second part (Ammulakshmi/wife) towards one time (full and final) settlement of maintenance, out of which Rs.5 lakhs has been paid by way of 'KISSAN VIKAS PATRA' in the name of his son, minor Jaivant.

3.The balance amount of Rs.5 lakhs will be paid by way of Fixed Deposit in State Bank of India in the name of his son, minor A.G.Jaivant, permitting the party of the second part (Ammulakshmi/wife) to withdraw the interest once in three months towards the educational expenses and other expenses for the minor son Jaivant. The said balance amount will be paid after getting a decree for divorce by mutual consent.

4.both the parties herein do not have any further claims each other in future.

5.The custody of the minor son will be decided by the concerned Court having jurisdiction over the matter.

6.The party of the second part (Ammulakshmi-Wife) is taking care of the minor son from his birth bearing all the expenses including educational expenses.

7.The party of the first and second part will file necessary application or memo to withdraw all the pending cases (except GWOP) and only the case for divorce by mutual consent will be pending."

6.As per the Joint Memorandum of Understanding, the parties have agreed to dissolve their marriage by mutual consent. The respondent/husband has agreed to pay a sum of Rs.10 lakhs to the appellant/wife as one time (full and final) settlement of maintenance, out of the said amount, a sum of Rs.5 lakhs has been paid by way of 'Kissan Vikas Patra' in the name of the minor child A.G.Jaivant. That part, the respondent/husband has agreed to pay the balance Rs.5 lakhs by way of Fixed Deposit in the State Bank of India, in the name of the minor child Jaivant, at the time of dissolution of divorce before the Court below.

7.Hence, recording the said joint Memorandum of Understanding, this Court issues the following direction_

In the event of a petition being filed under Section 13-B of the Hindu Marriage Act before the family Court on the ground of mutual consent for divorce, in view of the peculiar circumstances involved in the case, the Family Court, before passing orders in the petition under Section 13-B of the Hindu Marriage Act, shall ensure that the terms of the Memorandum of Compromise have been duly complied with by both the appellant and the respondent.

With the above observations, both the above Civil Miscellaneous Appeal and the Civil Revision Petition stand disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

To

The Subordinate Judge,
Poonamallee.

+1cc to Mr.Krishnamurthy, Advocate, S.R.No.50798

C.M.A.No.3234 of 2013
and
C.R.P. (PD) .No.3797 of 2013
and
connected MPs.

RR (CO)
GN (30/08/2017)



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