

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU
Civil Miscellaneous Appeal No.1828 of 2004

R. Ravichandran ... Appellant

Versus

R. Maheswari ... Respondent

Appeal filed under Section 19 of the Family Courts Act, 1984 against the Order dated 12.09.2003 made in O.P. No. 279 of 1997 on the file of II Additional Family Judge, Family Court, Chennai.

For Appellant : Mr.S.Thiruvengadam

For Respondent : Ms.R.Maheswari
Respondent - in - Person

JUDGMENT

(JUDGMENT OF THE COURT WAS DELIVERED BY R. SUBBIAH, J)

The appellant herein has filed Original Petition No. 279 of 1997 under Section 13 (1) (a) (b) and Section 26 of the Hindu Marriage Act, 1955 against the respondent herein seeking a decree of divorce on the ground of desertion and cruelty. The Original Petition was contested by the respondent herein by filing a counter affidavit. The court below, upon considering the oral and documentary evidence, by order dated 12.09.2003, dismissed the Original Petition filed by the appellant herein with costs and refused to grant a decree of divorce as prayed for. Aggrieved by the same, the husband/appellant has come forward with this Civil Miscellaneous Appeal.

2. Today, when the Civil Miscellaneous Appeal is taken up for hearing, the respondent is present along with her daughter. The learned counsel for the appellant submits that both the appellant and the respondent are residing separately for the past 20 years. It is further stated that the appellant and the respondent have mutually agreed to settle the dispute among them amicably by entering into a Memo of Compromise. The Memo of compromise dated 30.06.2017 entered into between the appellant and the respondent, which was duly signed by the appellant, respondent and the daughter born to the appellant and respondent was produced before this Court. The Memorandum of Compromise reads as follows:-

"The parties above named respectfully states as under:-

1. The appellant and the respondent are living separately for more than 20 years and the Divorce O.P. has been originally instituted in the year 1997.

2. The petitioner and the respondent felt that there is no possibility of reunion and the marriage has been irretrievably broken.

3. Therefore, the Appellant and the Respondent have mutually agreed to settle the issues amicably in the following manner:-

a. The appellant agreed to pay a sum of Rs.8,00,000/- (Rupees Eight Lakhs Only) towards permanent alimony of the respondent and her daughter Ms. Aishwarya Mahalakshmi, who is aged about 23 years.

b. The appellant has paid a sum of Rs.1,00,000/- (Rupees One Lakh Only) by way of Demand Draft dated 05.06.2017 in number 002794 drawn on TNSC Bank, Jawahar Nagar Branch in the name of the respondent.

c. The appellant is paying a sum of Rs.3,00,000/- (Rupees Three Lakhs Only) by way of Demand Draft dated 27.06.2017 in number 002807 drawn on TNSC Bank, Jawahar Nagar Branch in the name of the respondent and a sum of Rs.4,00,000/- (Rupees Four Lakhs Only) by way of demand draft dated 27.06.2017 in number 002806 drawn on TNSC Bank, Jawahar Nagar Branch in the name of the daughter namely Ms. Aishwarya Mahalakshmi which sum the respondent admitted and acknowledged

d. The respondent in view of the above said consideration agreed to give consent for allowing this appeal for grant of divorce

e. In view of the above said agreement there shall be no claim or counterclaim against each other in future.

f. The parties have entered into the compromise on their own will and was no threat or coercion.

3. It is evident from the recitals in the Compromise Memo entered into between the appellant and the respondent that they are residing separately for the past 20 years, which period of separation, in our opinion, satisfy the ingredients for granting a decree of divorce in their favour.

4. In the light of the above compromise memo dated 30.06.2017 entered into between the appellant and the respondent, we set aside the Order dated 12.09.2003 made in O.P. No. 279 of 1997 on the file of II Additional Family Judge, Family Court, Chennai and consequently OP No. 279 of 1997 is allowed granting a decree of divorce. Consequently, the Civil

Miscellaneous Appeal is allowed in terms of the compromise memo dated 30.06.2017. No costs. The Memo of Compromise entered into between the appellant and the respondent shall form part of the records.

(Xerox Copy of Original Memo
of Compromise is enclosed)

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rsh

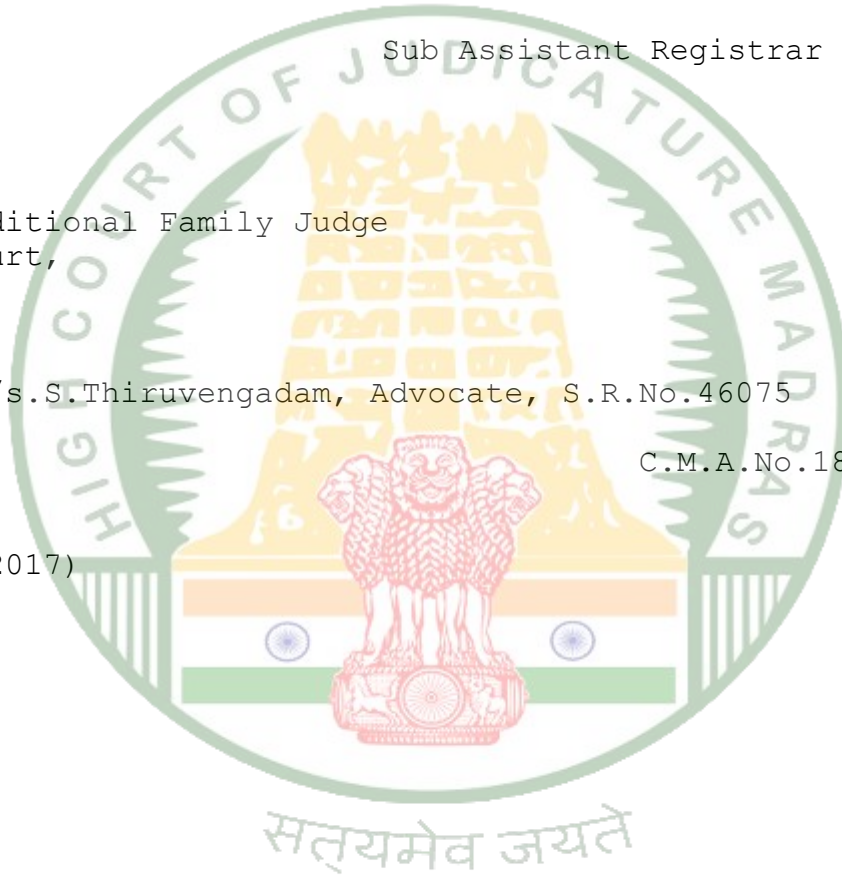
To

The II Additional Family Judge
Family Court,
Chennai.

+1cc to M/s.S.Thiruvengadam, Advocate, S.R.No.46075

C.M.A.No.1828 of 2004

MV(CO)
CA(25/07/2017)



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