

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 01.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN**TR.CMP(MD)No.572 of 2016****and C.M.P. (MD) Nos.12052 and 12053 of 2016**

WEB COPY

Sudar Vijayalakshmi

... Petitioner

Vs.

R.Sethu Madhavan

... Respondent

Prayer: Petition filed under Section 24 of Code of Civil Procedure to withdraw the petition in H.M.O.P.No.135 of 2016 on the file of the Family Court, Dindigul and transfer the same to the file of the Family Court, Madurai.

For Petitioner

:Mr.J.Jeyakumaran

For Respondent

:Mr.D.Selvaraj

JUDGMENT

The petitioner is the wife and the respondent is the husband and they got married on 05.09.2016. After their marriage, a dispute arose between the spouses.

2. The respondent filed H.M.O.P.No.135 of 2016 seeking for decree of nullity of marriage on the file of the Family Court, Dindigul. The petitioner/wife filed H.M.O.P.No.832 of 2016 on the file of the Family Court, Madurai, for restitution of conjugal rights. Only to transfer H.M.O.P.No.135 of 2016 pending on the file of the Family Court, Dindigul, to the Family Court, Madurai, to be tried along with H.M.P.No.832 of 2016, the wife filed this transfer petition.

3. Considering the young age of the spouses, this Court directed them to appear before this Court and they were present before this Court and an active counselling was done by the learned counsel for both parties. They have categorically stated that the issue sorted out and they have intended to be separated. The petitioner's parents are present and the mother of the respondent is also present.

4. They have submitted a Compromise Memo, dated 28.02.2017, signed by the petitioner/wife and the respondent/ husband and also countersigned by the respective Counsels.

5. A perusal of the said Compromise Memo, dated 28.02.2017, would reveal that both parties consented for divorce mutually and they seek decree of nullity of marriage in H.M.O.P.No.135 of 2016



on the file of the Family Court, Dindigul.

6. Both the parties have given up their allegations made against each other in all of the proceedings. Since the parties consciously with the consent of their parents have taken a decision to get divorce by mutual consent and filed the Compromise Memo dated 28.02.2017, this Court *suo motu* withdraws and calls for the records in H.M.O.P.No.135 of 2016 seeking for decree of nullity of marriage on the file of the Family Court, Dindigul., by invoking Article 227 of the Constitution of India and Section 151 of Code of Civil Procedure to the file of this Court and grants a decree of divorce of marriage by mutual consent by dissolving the marriage performed on 05.09.2016 between the petitioner/wife and the respondent/husband.

7. Recording the said Joint Compromise Memo dated 28.02.2017, this Transfer Civil Miscellaneous Petition is ordered. There shall be a decree of nullity of marriage in H.M.O.P.No.135 of 2016 in terms of the Joint Compromise Memo, dated 28.02.2017. Since decree of divorce has been passed, H.M.O.P.No.832 of 2016 has become unnecessary and the same is dismissed. The Compromise Memo dated 28.02.2017, shall form part of this order. No costs. Consequently, the connected Miscellaneous petitions are closed.

This petition coming under caption "For CLARIFICATION" on monday sixteenth day of August Two Thousand Twenty One and upon perusing the earlier order dated 01.03.2017 and upon hearing the arguments of the counsel both side and upon perusing the memo of compromise this Court made the following order:

The Registry has entertained a doubt stating that the signature of the petitioner/wife in the Joint Memo of Compromise differed from the signature in the Vakalat filed before this court in C.M.P.(MD). No. 8630 of 2017 (H.M.O.P.No. 832 of 2016).

2.in view of the same, on 16.08.2021 the matter is posted under the caption 'for clarification'. On that day, this Court had directed the petitioner/Wife to appear before this court.

3.Pursuant to the order, the petitioner is before this Court. As per the direction issued by this court, the Registrar(Judicial) has verified the identity of the petitioner and also verified the signature. After verification and due enquiry, it has been reported that the petitioner is the person, who has signed in joint Compromise Memo and in the affidavit. The Registry (judicial), who is present before this court, submits that the petitioner during enquiry informed him that both the signature are hers and that she has the habit of signing by writing her full name and sometime by affixing her initials.



WEB COPY

3

4. Recording the same, the matter has been clarified and no further order is necessary.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

To

1.The Family Court,
Madurai.

2.The Family Court,
Dindigul.

+2 CC to M/s.J.JEYAKUMARAN, Advocate (SR-27690[F],27690 dated 31/08/2021)

+1CC to Mr.D.Selvaraj, Advocate, SR.No. 11755 of 2017

Tr.C.M.P (MD) .No.572 of 2016
and C.M.P. (MD) No.12053 of 2016
01.03.2017

KMK (CO)

KB(30.09.2021) 3P 6C