

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE N. BALAYOGI

F.C.A.M.P.No.334 of 2017 in F.C.A.No.131 of 2011,

F.C.A.M.P.No.335 of 2017 in F.C.A.No.132 of 2011

AND

FAMILY COURT APPEAL Nos.131 & 132 of 2011

COMMON JUDGMENT: (*Per VRS,J*)

Both the above appeals arise out of two independent orders passed by the Family Court, by one of which, the petition filed by the wife for restitution of conjugal rights was allowed, and by the other, the petition filed by the husband for divorce was dismissed.

2. During the pendency of the above appeals, the parties have reached a settlement, and as a consequence, they filed the above miscellaneous petitions for recording the compromise.

3. It is seen from the record that the appellant and the respondent got married on 28.06.2002. They have two children, a daughter now aged 14 years and a son aged 9 years.

4. But, due to discord in the matrimony, the respondent-wife filed a petition for restitution of conjugal rights and the appellant-husband filed a petition for divorce in the years 2009 and 2010 respectively.

5. The Joint Memorandum of Compromise filed by the parties read as follows:

“MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made and executed on this the 22nd day of June, 2017 at Hyderabad by and between:

*Smt. Dola Devi, W/o Rama Venkata Kumar, Hindu, aged 35 years, R/o No.20D-7-11/1, Gudivadavari Veedhi, Eluru, W.G.Dt.
(Hereinafter called the first party)*

AND

*Dola Rama Venkata Kumar, S/o Simhachalam, Hindu, aged 42 years, Asst.Professor, Vishnu Dental college, R/o D.No.25-6-101, Sagarpet, Balusumudi, Bhimavaram, West Godavari District.
(Hereinafter called the second party)*

Whereas the parties to this agreement are legally wedded spouses having arrived on 28.6.2002 as per Hindu rights and customs.

And whereas out of their wedlock they are blessed with one female child and one male child.

And whereas some misunderstandings arose by and between the parties hereto and the first party is living separately by leaving the society of the second party. The first party filed O.P.No.36 of 2009 for restitution of conjugal rights and the second party filed O.P.No.1 of 2010 seeking divorce before the Family Court, West Godavari. The O.P.36 of 2009 was allowed and O.P.1 of 2010 was dismissed. The second party filed FCA 131 of 2011 against O.P.36 of 2009 and FCA 132 of 2011 against O.P.1 of 2010 before the Hon'ble High Court at Hyderabad. The said matters are pending for adjudication. At this juncture, both the parties settled the matter out of Court and as they realized that the marriage is irretrievably broken down and there is no chance of reunion has decided to take divorce by mutual consent. As the appeals are pending before the High Court, they decided to file suitable petitions in the FCAs and settled the matter amicably by praying the Court to allow the appeals. Both of them mutually agreed for the following terms and conditions:

**NOW THEREFORE THIS DEED OF SETTLEMENT CUM
MEMORANDUM OF UNDERSTANDING WITNESSETH AS
FOLLOWS:**

- 1. That the first and second parties accepted and decided to file suitable petitions before the High Court at Hyderabad for the State of Telangana and Andhra Pradesh to record the settlement and grant divorce by allowing the appeals pending before the High Court.*

2. That the second party agreed to pay Rs.30,00,000/- (Rupees thirty lakhs only) to the first party as permanent alimony in full and final settlement to the first party and the two children. The said amount was paid by way of Demand Draft bearing Nos.511483 dated 28.6.2017 drawn on State Bank of India for Rs.10,00,000/- (Rupees ten lakhs only) and Demand Drafts bearing Nos.377821 and 377822 both dated 20.6.2017 for Rs.5,00,000/- each (Rupees five lakhs only) drawn on Corporation Bank and the balance amount of Rs.10,00,000/- (Rupees ten lakhs only) was paid by way of cash and the first party acknowledged the same.
3. That the minor children namely Miss Sharad Deepika, aged 14 years and Master Harshad aged 9 years shall be in the care and custody of the first party being the natural mother of the minors and the first party shall not claim future maintenance towards her and for the minor children. Further, the first party agreed that she will not claim any right over the properties of the second party in future.
4. That the second party shall have the visiting rights to see and meet the minor children on mutually fixed date with prior intimation to the first party at the mutually fixed place.
5. That the first party withdrew the complaints/cases pending before different courts.
6. That none of the parties shall file any civil or criminal cases against each other henceforth whatsoever in nature.
7. That parties hereto have no further or future claim whatsoever of any nature against each other and they are at liberty to live their respective lives without any interference from each other.

IN WITNESSES WHEREOF both the parties have put their hand and signed this Settlement Deed cum Memorandum of Understanding after hearing and understanding the contents on the above given date and year in the presence of the following witnesses.

1. Sd/- xxxxxxxxxx
(Simhachalam D.)

Sd/- xxxxxxxxxx
(Smt. Dola Devi)
First party

2. Sd/- xxxxxxxxxx
(D. Krishnavenu)

Sd/- xxxxxxxxxx
(Dola Rama Venkata Kumar)
Second party”

6. The parties were present in Court. After verifying the identities of both parties, we questioned both of them. While the husband is a Dentist and an Assistant Professor in a Dental College, the wife is an employee of the State Bank of India. We are convinced that both of them have arrived at a compromise out of free will and voluntary consent.

7. Therefore, the miscellaneous petitions are allowed. Both the appeals are disposed of, to the following effect:

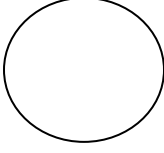
- i) There will be a decree of divorce by mutual consent and the marriage solemnized on 28.06.2002 shall stand dissolved.
- ii) The wife has received a total amount of Rs.30,00,000/- (Rupees thirty lakhs only) towards all her claims – past, present and future, against the husband including alimony for herself and for the children.
- iii) The wife shall have the permanent custody of the minor children, subject, however, to the visitation rights of the husband, as worked out between the parties, as and when he requires.
- iv) There will be no order as to costs.

Consequently, miscellaneous petitions if any pending in the appeals shall stand dismissed.

V. RAMASUBRAMANIAN, J

N. BALAYOGI, J

23rd June, 2017
cbs



THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN ✓
AND
THE HON'BLE SRI JUSTICE N. BALAYOGI



F.C.A.M.P.No.334 of 2017 in F.C.A.No.131 of 2011,
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AND
FAMILY COURT APPEAL Nos.131 & 132 of 2011
(petitions allowed – appeals disposed of)

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+F.C.A. Nos.131 & 132 of 2011

% 23-06-2017

Dola Rama Venkata Kumar

.. Appellant

Vs.

\$ Dola Devi

.. Respondent

<GIST:

>HEAD NOTE:



! Counsel for appellant

: Smt. S.A.V. Ratnam

^ Counsel for respondent

: Mr. M. Suryanarayana

? CASES REFERRED : ----