

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Transfer C.M.P.M.P.No.7 of 2017 in Transfer CMP No.300 of 2016

And

Transfer Civil Miscellaneous Petition No.300 of 2016

ORDER:

This Transfer Civil Miscellaneous Petition under Section 24 of the Code of Civil Procedure, 1908, ('the Code'), is filed by the petitioner/ wife requesting to withdraw O.P.No.21 of 2016 on the file of the Court of the learned III Additional Senior Civil Judge, Kakinada, and transfer the same to the Family Court, City Civil Court, Hyderabad.

The said O.P.No.21 of 2016 was filed by the respondent/husband under Section 13(1) (ia) (ib) of the Hindu Marriage Act, 1955, seeking a decree of divorce.

2. Notice before admission came to be ordered on 03.06.2016. On 04.07.2016, this Court granted interim stay of all further proceedings in the said O.P.No.21 of 2016, and thereafter, the interim stay was extended until further orders.

3. While the matter stood thus, on 04.01.2017, Transfer C.M.P.M.P.No.7 of 2017 was filed under Order XXIII Rule 3 read with Section 151 of the Code requesting to dispose of the said OP by recording the compromise as per the terms reduced into writing in the form of Memorandum of Compromise annexed to the petition and also incorporated in the affidavits of the wife and the husband filed in support of Tr.C.M.P.M.P.No.7 of 2017.

4. Heard the learned counsel appearing for the petitioner/ wife and the learned counsel for the respondent/ husband.

5. Both the parties are present before this Court in person along with their minor child, M.Sri Pawan Krithika, and they are duly identified by their respective counsel. The parties also produced the copies of their respective identity proofs.

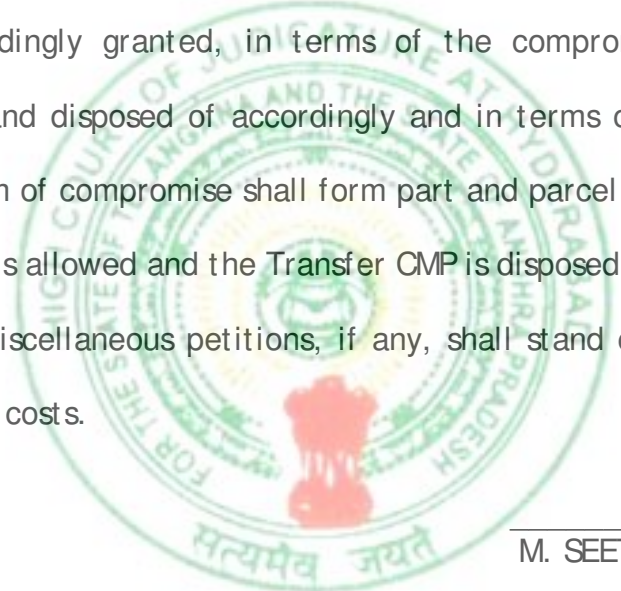
6. At the hearing, the parties admitted the terms of compromise, which are stated in the respective affidavits of the parties and also in the Memorandum of Compromise signed by both the parties and their respective counsel. As per the terms of compromise, both the parties mutually agreed to dissolve the marriage dated 10.03.2004; and the husband paid an amount of Rs.10,00,000/- (Ten Lakhs only) by way of Demand Draft bearing No.033773 dated 03.01.2017 drawn in favour of the petitioner/wife towards permanent alimony; the respondent/ husband further paid an amount of Rs.10,00,000/- (Ten Lakhs only) by way of Demand Draft bearing No.033774 dated 03.01.2017 drawn in favour of the minor child, M.Sri Pawan Krithika, towards her maintenance, educational and marriage expenses. As per the terms of the compromise, both the parties agreed that the minor child shall continue to remain in the custody of the petitioner/ wife and that the petitioner/ wife shall take care of the minor child in all respects. It is also stated in the compromise that there are no further claims between the parties and all disputes and claims are settled; and that the respondent unconditionally agreed to withdraw all the allegations made against the petitioner herein, in O.P.No.21 of 2016 on the file of the Court of the learned II Additional Senior Civil Judge, Kakinada. Both the parties admitted the terms of the compromise to be true and correct and that the compromise was entered into with free will and consent.

7. In the light of the aforesaid developments, this Court is of the considered view that there is no reason to keep the original petition pending or prolong the litigation between the parties, as the parties have decided to

dissolve the marriage by way of mutual consent and have also stated that there is no chance of reconciliation or reunion.

8. In that view of the matter and as a sequel to the compromise entered into and admitted now by the parties before this Court, O.P.No.21 of 2016 on the file of the Court of the learned III Additional Senior Civil Judge, Kakinada, filed by the respondent/husband under Section 13(1)(ia)(ib) of the Hindu Marriage Act, 1955, is withdrawn from the file of the said Court to the file of this Court exercising *suo motu* power under Section 24 of the Code and as per the terms of the compromise, the marriage dated 10.03.2004 between the parties is dissolved by allowing the above said Original Petition and a decree of divorce is accordingly granted, in terms of the compromise. The Original Petition shall stand disposed of accordingly and in terms of the compromise. The memorandum of compromise shall form part and parcel of this decree. The transfer CMP MP is allowed and the Transfer CMP is disposed of accordingly.

Pending miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.



M. SEETHARAMA MURTI, J

05th January, 2017
RAR