

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

C.R.P. M.P. Nos. 3263 & 3264 of 2017
In & And
Civil Revision Petition No.2335 of 2015

COMMON ORDER:

This is a Civil Revision Petition, under Section 115 of the Code of Civil Procedure, 1908 ('the Code') by the husband/respondent in O.P.No.1167 of 2014 on the file of the Court of the Judge, Additional Family Court, City Civil Court, Hyderabad, assailing the orders, dated 02.01.2015, passed in I.A.nos.964 and 965 of 2014 in the said OP.

2. The above O.P.No.1167 of 2014 is filed by the wife seeking a decree of restitution of conjugal rights. In the said pending OP, the respondent/husband filed the afore-stated two applications in I.A.nos.964 & 965 of 2014 to advance the OP and to reject the same. The Court below, by the order impugned in this revision, dismissed both the applications. Aggrieved thereof, the husband filed this revision petition.

3. While matters stood thus, C.R.P.M.P.No.3263 of 2017 was filed requesting to grant a decree of divorce by dissolving the marriage of the parties and C.R.P.M.P.No.3264 of 2017 was filed requesting to record compromise arrived at between the parties. A memorandum of compromise entered into by and between the parties, on 02.06.2017, is filed along with the above said MP No.3264 of 2017. The memorandum of compromise is signed by both the parties and their respective counsel. It is *inter alia* stated in the said compromise memo that the parties settled the matter amicably and that they mutually agreed for dissolution of the marriage and seek decree of divorce dissolving the marriage, which was solemnized between them, on 27.12.2012, and that

both parties agreed that there are no claims against each other and that the compromise can be admitted before the Court by their respective GPA holders.

4. Both parties having thus agreed to abide by the terms and conditions of the Memorandum of compromise filed the afore-stated miscellaneous petitions. Learned counsel for both the parties submitted that both parties have agreed to withdraw the allegations and counter allegations made against each other and also resolved not to raise any sort of claims or demands against each other as both parties decided to dissolve their marriage voluntarily and with free will and consent and hence, the OP pending on the file of the Additional Family Court, City Civil Court, Hyderabad, may also be disposed of in terms of the compromise and as a sequel to the settlement arrived at between the parties.

5. The parties are represented by their respective GPA holders-cum-respective fathers. They have produced copies of documents in proof of their respective identities. This Court, by separate orders passed today, in C.R.P.M.P.Nos.6140 and 6141 of 2017, permitted the respective fathers-cum-GPA holders of the parties to represent the parties to the *lis* and admit the terms of the compromise. Both the General Power of Attorney holders are present before this Court and they are identified by the respective counsel of the parties. When examined in open Court, the GPA holders of the parties have stated that the parties have entered into compromise voluntarily and with free will & consent and without any pressure from any quarter and further admitted the terms of the memorandum of compromise and prayed for granting a decree of divorce by dissolving the marriage of the parties.

6. Learned counsel appearing for the parties further submit that the matters are pending before the Courts for more than two years and that the parties are living separately since a long time of more than two years and therefore, there is no requirement of statutory waiting period.

7. I have carefully considered the facts and the submissions of the learned counsel for the parties.

8. Under Section 9 of the Family Courts Act, 1984, a duty is enjoined upon the Court to consider the alternative mode of reconciliation between the parties. Even Section 89 of the Code of Civil Procedure, 1908, which applies to the Family Court, also enjoins the Court with a duty to follow the method of resolution of the disputes by alternative mode. The parties in the present case, after the OP was filed by the wife, have lived separately for a period of more than two years; and, having seen reason had come to an understanding and have withdrawn the acrimonious allegations against one another so that divorce can be granted amicably to both of them rather than to one of the spouses. Reconciliation by way of amicable settlement of the dispute is arrived at by the parties and both parties agreed to have the marriage dissolved as per the said settlement; and, the parties have withdrawn the spiteful and discordant allegations after an amicable settlement and are seeking divorce by mutual consent in terms of the compromise. When the parties have been living separately for more than the statutory cooling period of six months, in the well considered view of this Court, the Court, which is required to function under the reconciliatory mode, shall permit the parties to have the matter settled amicably and dispose of the OP by granting a decree of divorce by dissolution of marriage by not insisting upon further completion of waiting period of six months as the

waiting period had already elapsed during the pendency of the original proceedings in the Family Court and as the couple have voluntarily decided to dissolve their marriage and as it is also stated before this Court that there is no chance of reconciliation or reunion. Having regard to the facts the statutory requirement of a six month waiting period is not insisted upon since not necessary in the facts and circumstances of the case.

9. In the light of the afore-stated developments and the above analysis, this Court is of the considered opinion that there is no reason to keep this revision petition as well as OP 1167 of 2014 pending or prolong the litigation between the parties.

10. The Civil Revision Petition is accordingly disposed of in terms of the compromise. As a sequel, O.P.No.1167 of 2014 on the file of the Additional Family Court, Hyderabad, is also disposed of, and C.R.P.M.P.No.3263 and 3264 of 2017 are allowed dissolving the marriage, dated 27.12.2012, between the parties hereto by granting a decree of divorce by mutual consent. The memorandum of compromise, dated 02.06.2017, which shall be annexed to the decree, shall form part and parcel of this decree and shall be binding upon the parties.

Pending miscellaneous petitions, if any, in this revision shall stand closed. No order as to costs.

JUSTICE M. SEETHARAMA MURTI

08.09.2017
RAR