

IN THE HIGH COURT OF JUDICATE AT MADRAS

DATED : 18.06.2018

CORUM

THE HON'BLE MR.JUSTICE R.SUBBIAH

and

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.Nos.1033 & 1224 of 2014

and M.P.No.1 of 2014

M.Rangasamy ... Appellant in both the Appeals.

Vs.

P.Kalaivani ... Respondent in both the Appeals.

Civil Miscellaneous Appeal No.1033 of 2014 has been filed under Section 19 of the Family Courts Act 1984 against the orders and decree dated 18.02.2014 made in O.P.No.3064 of 2009 on the file of the Principal Judge, Family Court, Chennai, dismissing the divorce petition filed under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 for dissolution of their marriage held on 30.04.2006

Civil Miscellaneous Appeal No.1224 of 2014 has been filed under Section 19 of the Family Courts Act 1984 against the orders and decree dated 18.02.2014 made in O.P.No.981 of 2010 on the file of the Principal Judge, Family Court, Chennai, allowing the petition for restitution of conjugal rights filed under Section 9 of the Hindu Marriage Act, 1955

For Appellant : Ms.K.Vennila

For Respondent : Ms.S.Menaka

COMMON JUDGMENT

(Judgment of the Court was delivered by R.SUBBIAH, J.,)

Both these appeals have been filed by the appellant/husband as against the order and decree dated 18.02.2014 made in O.P.No.3064 of 2009 and O.P.No.981 of 2010 respectively passed by the Principal Judge, Family Court, Chennai.

2. O.P.No.3064 of 2009 has been filed by the appellant/husband against the respondent/wife for divorce and O.P.No.981 of 2010 has been filed by the wife/respondent against

the petitioner/husband for restitution of conjugal rights. The Principal Family Court, Chennai has dismissed the O.P.No.3064 of 2009 and allowed the O.P.No.981 of 2010.

3. Today, when the appeals are taken up for consideration, both the parties appeared before this Court along with their respective counsels and submitted that the matter has been settled between the parties and they have filed a memo of compromise on 26.04.2018. Both the parties and their respective counsels have signed in the memo of compromise. The said compromise entered into between the parties reads as follows:

"NOW THIS DEED WITNESSES, and it is hereby mutually agreed by and between the parties as follows:

Clause 1) That the parties do hereby declare and confirm that the memorandum of understanding these presents does not amount to any collusion on their part and they do hereby further and once again declare and confirm that they sincerely enter into and execute this memorandum of understanding only with their full consent and final agreement.

Clause 2) The Respondent/Wife/Second Party consents for the dissolving of the marriage between the Appellant and the Respondent solemnized on 30-4-2006 at Arulmigu Dharmaraja Thirukoil of Tirupattur and for allowing the C.M.A.No.1033 of 2014 and O.P.No.3064 of 2009 on the file of the Principal Family Court Judge at Chennai.

Clause 3) The Respondent/ Wife/Second Party consents for allowing the appeal in C.M.A.No.1224 of 2014 and dismissing the O.P.No.981 of 2010, for restitution of conjugal rights.

Clause 4) The Appellant/ Husband/ First Party shall pay Rs.20,00,000/- (Rupees Twenty Lakhs only) towards the full and final settlement i.e., Permanent Alimony of the maintenance of the Respondent/ Wife second Party, and their minor daughter Devi Sree, for both of their maintenance, food, clothing accommodation, education, medical expenses and marriage expenses and all other expenses including for their share in the movable and immovable properties in the hands of the Appellant/Husband/First Party on or before 14<sup>th</sup> June, 2018.

Clause 4 (i) From the above amount of Rs.20,00,000/- (Rupees Twenty Lakhs only) the respondent/Wife/Second Party, as mother and guardian of their minor

child Devi Sree, shall deposit in a FIXED DEPOSIT in the SBI or in any of the nationalized banks on or before 15<sup>th</sup> June, 2018, not less than Rs.15,00,000/- (Rupees Fifteen Lakhs only) out of Rs.20,00,000/- (Twenty Lakhs only) till the date 31-12-2025 and authorising Devi Sree only on her attaining majority to operate, transact, to deal and to withdraw such deposit amount with accrued interest or any portion thereof and that the Respondent/ Wife/ Second Party shall withdraw money from the accrued interest or the Principal at any time during the period of minority of Devi Sree.

Clause 4) (ii) In pursuance of clause 4 above, the Appellant/Husband/ First Party has to pay to the respondent/Wife/Second Party, a sum of Rs.2,00,000/- (Rupees Two Lakhs only) by way of banker's Cheque/DD on or before 14<sup>th</sup> June 2018, in the name of the Respondent/ Wife/ Second Party.

Clause 4) (iii) In pursuance of clause 4 above, the Appellant/ Husband/ First Party has to pay to the Respondent/ Wife/ Second Party, a sum of Rs.3,00,000/- (Rupees Three Lakhs only) by way of cash on or before 14<sup>th</sup> June, 2018, in the name of the Respondent/ Wife /Second Party, regarding to the said amount.

Clause 5) Thus the Appellant/ Husband/ First Party has to pay, fully the total agreed amount of Rs.20,00,000/- (Rupees Twenty Lakhs only) to the Respondent/ Wife/Second Party and their minor daughter Devi Sree towards full and final settlement of the entire claim.

Clause 6) It is agreed that after the execution of the terms and conditions stated above there shall be no claim left between the parties against each other in any manner whatsoever. The First party shall not raise any claim or right over the properties immovable or movable of the Second party or her parents and relatives in future. He/She shall not file any other criminal or other complaint against the other party or their family members within the jurisdiction in India, or

abroad.

Clause 7) It is further agreed between both the parties, that they should not have any communication or contact with each other, with each other's friends, family members or relatives. They shall not create any situation which may defame or lower the reputation of the parties or their family members in the society. It is further agreed that they shall not enter at each other's workplaces as well. Both the parties have executed this MOU by mutual consent and without any force, coercion, misrepresentation, pressure from any corner and after going through and understanding the contents of the same.

Clause 8) In view of this compromise the Respondent/wife shall withdraw and not pressing petition filed by her under section 125 of Cr.P.C. in M.C.No.173 of 2015, which is pending for Trial, before the Hon'ble II Additional Family Court, Chennai.

Clause 9) In pursuance of the above compromise both the Appellant and the Respondent pray that this Hon'ble Court may be pleased to allow both the appeals in C.M.A.No.1033 of 2014 and C.M.A.No.1224 of 2014 and thus render justice.

Clause 10) It is submitted that the Second Party has agreed that, after receiving the entire money i.e., the permanent alimony, a sum of Rs.20,00,000/- (Twenty Lakhs only) from the First Party, immediately both of them are ready to enter into a Memorandum of Understanding with the stipulated condition of this MOU.

4. Today (18.06.2018), learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent submitted that the appellant has paid the full and final settlement of the entire claim made by the respondent under the compromise, today. The parties have also filed a Memorandum of Whole satisfaction under Order 21 Sub-Rule 1 of Rule 2 of C.P.C. which reads as follows:

"1. The Memorandum of Compromise dated 26/04/2018 between the appellant and the respondent had already been filed in this Honourable Court.

2. Both the parties pray that this Honourable court may be pleased to pass decree in terms of the above compromise dated 26/04/2018.

3. In terms of the above compromise, the appellant/husband shall pay Rupees Twenty lakhs



only towards full settlement of all the claims of the respondent/wife and their minor daughter Devi Shree.

4. In terms of the compromise the mode of payment is as follows:

a) Rupees three lakhs to be paid in cash.

b) Rupees Two lakhs to be paid by way of Banker's cheque/DD.

c) Rupees Fifteen lakhs to be deposited in the State Bank of India in the name of Minor Devi Shree represented by next friend mother Guardian, namely, P.Kalaivani who is the respondent herein.

5. Accordingly, the appellant/ husband (Judgment debtor) had paid Rupees Three lakhs in cash this day (18-06-2018) to the respondent wife namely, P.Kalaivani (decree holder) who had received the same this day (18/06/2018).

6. The appellant/husband (Judgment debtor) had paid Rupees Two lakhs by way of Demand Draft bearing no.179828 dated 02/06/2018 issued by the State Bank of India, Jainagar branch (Code no.12751) in favour of P.Kalaivani, (decree holder) the respondent herein, the drawee branch being Kurisilapattu Code No.05582) and the respondent P.Kalaivani had received the same this day (18/06/2018).

7. The appellant/husband paid Rupees Fifteen Lakhs under term deposit receipt bearing account no 37731614609 and CIF no.9011908290-2 in the name of their minor daughter Devi Shree dated 04/06/2018, the maturity date being 31.12.2025 and the maturity value being Rupees 24,91,387.00 and the above original deposit receipt had been given to the respondent P.Kalaivani being the mother and Guardian of minor Devi shree on this day (18.06.2018) and the same had been received on this day (18.06.2018) by the respondent P.Kalaivani, being the mother and Guardian of minor Devi shree.

8. Thus the entire settlement amount of Rupees Twenty lakhs is fully paid in full satisfaction of the entire claim under the compromise dated 26/04/2018.

9. The respondent wife P.Kalaivani for herself and on behalf of the minor daughter Devi shree hereby certify the receipt of the entire amount of Rupees Twenty lakhs and this Honourable court may be pleased to record the full satisfaction and thus render justice.

10. The Xerox copies of (a) Cash receipt

dated 18-06-2018 for Rupees Three Lakhs issued by the respondent to the appellant, (b) Demand Draft bearing no.179828 dated 02/06/2018 and (c) the term deposit receipt bearing A/c no.37731614609 and CIF no.9011908290-2 dated 04/06/2018 (Total for Rupees Twenty Lakhs only) are submitted herewith for ready reference.

11. This Honourable court may be pleased to record this and thus render justice."

5. The memorandum of whole satisfaction filed by the parties dated 18.06.2018 is hereby recorded. In view of the memo of compromise filed by the parties dated 26.04.2018, both the appeals are allowed, setting aside the order and decree dated 18.02.2014 passed in O.P.No.3064 of 2009 and O.P.No.981 of 2010 by the Principal Judge, Family Court, Chennai. The marriage between the appellant and the respondent solemnized on 30.04.2006 is dissolved. The memo of compromise shall form part of the decree. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

vsi

To,  
The Principal Judge,  
Family Court,  
Chennai.

+1cc to Mr.K.VENNILA, Advocate, S.R.No.37697

+1cc to Mr.D.MANIMARAN, Advocate, S.R.No.38767

C.M.A.Nos.1033 & 1224 of 2014

TM(CO)  
TR(30/08/2018)

WEB COPY