

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

C.R.P.No.1981 of 2018
and CMP. No. 11578 of 2018

Karthikeyan Babu

***represented by Power of
Attorney Babu Mudali**

.....Petitioner

Vs.

Ramya Ganapathy

.....Respondent

Prayer: The Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order dated 16.04.2018 on the file of the Sub-Court, Tambaram and Direct to the Sub-Judge, Tambaram to pass an order of Divorce in H.M.O.P.No.46 of 2017 expeditiously, without insisting upon the appearance of the petitioner.

For Petitioner : Mr.D.Ferdinand
For Respondent : M/s.Surana & Surana

ORDER

The prayer sought for in the present petition is to set aside the order dated 16.04.2018 on the file of the Sub Court, Tambaram and direct the Sub Judge, Tambaram to pass an order of Divorce in H.M.O.P.No.46 of 2017 expeditiously, without insisting upon the appearance of the petitioner.

2. Heard both sides and perused the documents available on record.

3.It is seen that consequent to joint Memorandum of Understanding dated 27.11.2017 entered into between the parties and mediation report of the Tamil Nadu Mediation and Conciliation Centre, High Court of Madras, dated 28.11.2017, both parties had agreed to dissolve the marriage between them in accordance with the terms of the Memorandum of Understanding.

4.Subsequently, this court by an order dated 11.01.2018, had disposed of the CRP.No.4168 of 2017 filed by the petitioner by recording the terms of Memorandum of Understanding entered into between the parties and the report of the Tamil Nadu Mediation and Conciliation Centre along with the affidavit dated 06.01.2018 filed by the petitioner to that effect.

5.In effect, the terms of Memorandum of Understanding for dissolving the marriage between the parties had been recorded and ratified by this Court in the order dated 11.01.2018 in C.R.P.No.4168 of 2017. Therefore, the effect of such order would be that the marriage is deemed to have been dissolved. Nevertheless, since HMOP No.46 of 2017 is pending before the trial court, it is necessitated the petitioner herein to file a Memo dated 06.07.2017 for formally recording the dissolution of the marriage.

6.It is now brought to my notice that the trial court is insisting for the personal appearance of the petitioner/husband for the purpose of recording the memo filed.

7.It is needless to point out that when this Court had already recorded the terms of the Memo of Understanding as well as affidavit filed by the petitioner in its order in C.R.P.No.4168 of 2017 dated 11.01.2018, the option left to the learned Subordinate Judge, Tambaram is only to ratify the certificate by specific method in terms of the said Memo of Compromise without insisting upon the appearance of either of the parties.

8. It is seen that the petition in HMOP No.46 of 2017 came to be dismissed and the restoration application in S.R.No.10972 of 2017 has also been filed by the petitioner. The learned counsel for the respondent submits that he has no objection, if the said application for restoration of HMOP is allowed.

9.In the light of the above observations, the petitioner is granted liberty to file a fresh memo seeking for recording the terms of Memorandum of Understanding dated 27.11.2017 entered into between parties and on such receipt of memo, the learned Subordinate Judge, Tambaram shall forthwith consider and pass fair and decretal order for dissolving the marriage between the parties. Such an exercise shall be completed within a period of one week from the date of receipt of the memo.

With the above direction, the Civil Revision Petition stands disposed of. No Costs. Consequently, the connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CS VII)
Dated: 05/09/2018

***Cause Title Corrected as
per order of this Court
dated 25/09/2018)**

Sd/-
Assistant Registrar (CS-IX)
Dated: 01/10/2018

True Copy

Sub-Assistant Registrar

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To

The Sub Judge,
Tambaram.

To be substituted to the order already
Despatched on 12.09.2018

+1 CC to M/s. BFS Legal, sr 66215.

+1cc to M/S.Surana & Surana, Advocate Sr.66948

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SP(06/09/2018)
srg 1/10/2018

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