

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1852 of 2018
and
C.M.A.No.1128 of 2018

C.M.A.No.1852 of 2018

S.Parvathi ... Appellant

-vs-

Sankar Mahesh ... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of Family Court Act against the fair and decretal order dated 18.05.2018 made in I.A.No.548 of 2015 in O.P.No.2253 of 2011 passed by the V Additional Principal Judge, Family Court, Chennai.

For Appellant: Mr.S.Arivazhagan

For Respondent: Mr.S.Jayakumar

C.M.A.No.1128 of 2018

Sankar Mahesh ... Appellant

-vs-

S.Parvathi ... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of Family Court Act against the fair and decretal order dated 30.10.2017 made in I.A.No.2350 of 2014 in H.M.O.P.No.2253 of 2011 passed by the V Additional Principal Judge, Family Court, Chennai.

For Appellant: Mr.S.Jayakumar

For Respondent: Mr.S.Arivazhagan

C O M M O N J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN,
J.)

C.M.A.No.1128 of 2018 has been filed by the husband/appellant against the order passed by the family Court granting interim maintenance of Rs.15,000/- to the respondent/wife per month.

2.C.M.A.No.1852 of 2018 has been filed by the appellant/wife against the order directing the appellant/wife to undergo medical test to prove that she is capable of procreating and performing marital obligations.

3.Herein after, the husband would be called as appellant and the wife would be called as respondent.

4.The facts of the case are as follows;

The appellant got married to the respondent on 20.08.2008 in Chennai. The parties were unable to lead a normal marital life which led to filing of H.M.O.P.No.2253 of 2011 by the appellant for divorce. Similarly, the respondent filed a maintenance case in M.C.No.07 of 2010 on the file of Judicial Magistrate, Arakkonam which was disposed of on 20.11.2015. That apart, the respondent took out an application in I.A.No.2350 of 2014 seeking interim maintenance which was granted by the V Additional Family Court, Chennai by order dated 30.10.2017 against which the appeal in C.M.A.No.1128 of 2018 has been filed.

4.In the same Original petition, the appellant took out an application in I.A.No.548 of 2015 seeking direction to the respondent to submit herself for medical examination, as to whether she has the capacity of procreation. The said petition was allowed on 18.05.2018, against which the appeal in C.M.A.No.1852 of 2018 has been filed.

5.When the matter is called today, both the appellant and respondent are present. They would submit that they agreed to get divorce on payment of Rs.23,00,000/- by the appellant to the respondent. Both the parties are present and they categorically reiterated that the matter will be settled and once for all, a sum of Rs.23,00,000/- will be paid by the appellant/husband to respondent/wife towards permanent alimony. The said amount has been paid by way of Demand Draft drawn on HDFC Bank, R.A. Puram Branch in No.042995 dated 07.12.2018 in favour of respondent/wife. The said Demand Draft has been handed over to the respondent/wife across the bar and in this regard, the respondent/wife has also made an endorsement in the Court bundle.

6.A joint Memo of compromise duly signed by the appellant/husband & respondent/wife and counter signed by the respective counsel has been filed. In view of the settlement reached by the parties as proved by their statement in the open Court and also the joint memo of compromise filed in this regard, this Court, suo motu withdraws H.M.O.P.No.2253 of 2011 on the file of V Additional Family Court, Chennai under article 227 of the

Constitution of India and grants a decree of divorce to the parties by consent under Section 13 (b) and further, the order passed by the Judicial Magistrate, Arakkonam is hereby set aside.

7. In view of the settlement and disposal of the main petition itself, all the orders passed by the Courts below are set aside and the above appeals are also disposed of.

Here Enclosed the xerox copies of Joint memo of Compromise.

Sd/-
Assistant Registrar (CS)
//True Copy//
Sub Assistant Registrar

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To

1. The V Additional Principal Judge,
Family Court,
Chennai.

+2ccs to Mr. S. Jayakumar, Advocate SR.No. 84631
+1cc to Mr. S. Arivazhagan, Advocate SR.No. 84871

C.M.A.No.1852 of 2018
and
C.M.A.No.1128 of 2018

A.SK(06/02/2019)

सत्यमेव जयते

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