

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2018

CORUM

THE HON'BLE MR.JUSTICE R.SUBBIAH
and
THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1744 of 2012

Jaikishan Appellant/Petitioner

Vs.

M.Mariammu Respondent/Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Section 39 of the Special Marriage Act, 1954, against the order dated 23.01.2012 made in S.M.O.P.No.29 of 2006 passed by the learned Principal District Judge at Tiruvallur.

For Appellant : Mr.R.Shankar
For Respondent : Mr.G.Muthukumar

JUDGMENT

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

This appeal has been filed against the order dated 23.01.2012 in S.M.O.P.No.29 of 2006 passed by the Principal District Judge at Tiruvallur, dismissing the petition for divorce.

2. The appellant herein is the husband and the respondent herein is the wife. The appellant and the respondent married as per the provisions of Special Marriage Act in the Sub-Registrar Office, Avadi, on 21.11.2002. The marriage between the appellant and the respondent was a love marriage. Subsequently, there was misunderstanding between the husband and wife. Hence, the appellant filed S.M.O.P.No.29 of 2006 for divorce on the ground of cruelty under Section 27(1)(d) of Special Marriage Act before the Principal District Court, Thiruvallur. The said petition was dismissed by the learned Principal District Judge, Thiruvallur, by order dated 23.01.2012. Aggrieved over the same, the appellant/ husband has filed the present Appeal.

3. Today, when the matter is taken up for consideration, learned counsels appearing on either side submitted that the dispute between the parties was amicably settled among themselves and they mutually agreed for dissolving the marriage held on 21.11.2002. Both the parties are present before this Court. They have also filed a memorandum of compromise dated 02.08.2018 before this Court signed by them along with their respective counsels. The Memorandum of Compromise reads as follows:

1. It is respectfully submitted that the petitioner and respondent have mutually been resolved their dispute by way of amicable settlement.

2. It is submitted that the appellant/husband filed S.M.O.P.No.29 of 2006 before the Hon'ble Principal District Judge at Tiruvallur for divorce and the same was dismissed against which the present CMA was filed by the appellant/husband.

3. It is submitted that as per the amicable settlement, the appellant has agreed to pay Rs.5,00,000/- (Rupees Five Lakhs) as full and final settlement to the respondent/ wife and her son namely Abdul Masjid who is aged about 14 years and he is in custody of the respondent.

4. It is submitted that as per amicable settlement, the appellant herein already handed over the original Demand draft for a sum of Rs.5,00,000/- (Rupees Five Lakhs) in Demand Draft No.161988 dated 04.07.2018 of Andhra Bank, Avadi-Chennai Branch, Chennai. The respondent also accepted the same.

5. It is respectfully submitted that the both parties agreed that they will not claim each other for any monetary benefits in respect of above said issue.

It is therefore prayed that this Hon'ble Court may be pleased to accept this Memorandum of Compromise since matter is settled between parties and allow this appeal by granting decree of divorce in CMA No.1744 of 2012 pending on the file of the Hon'ble Court and thus render justice.

4. In view of the memorandum of compromise filed by the parties dated 02.08.2018, the civil miscellaneous appeal is allowed setting aside the order dated 23.01.2012 passed by the Principal District Judge, Tiruvallur, in S.M.O.P.No.29 of 2006. The marriage between the appellant and the respondent held on 21.11.2002, is dissolved. The memorandum of compromise dated 02.08.2018 shall form part of the decree. No costs.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

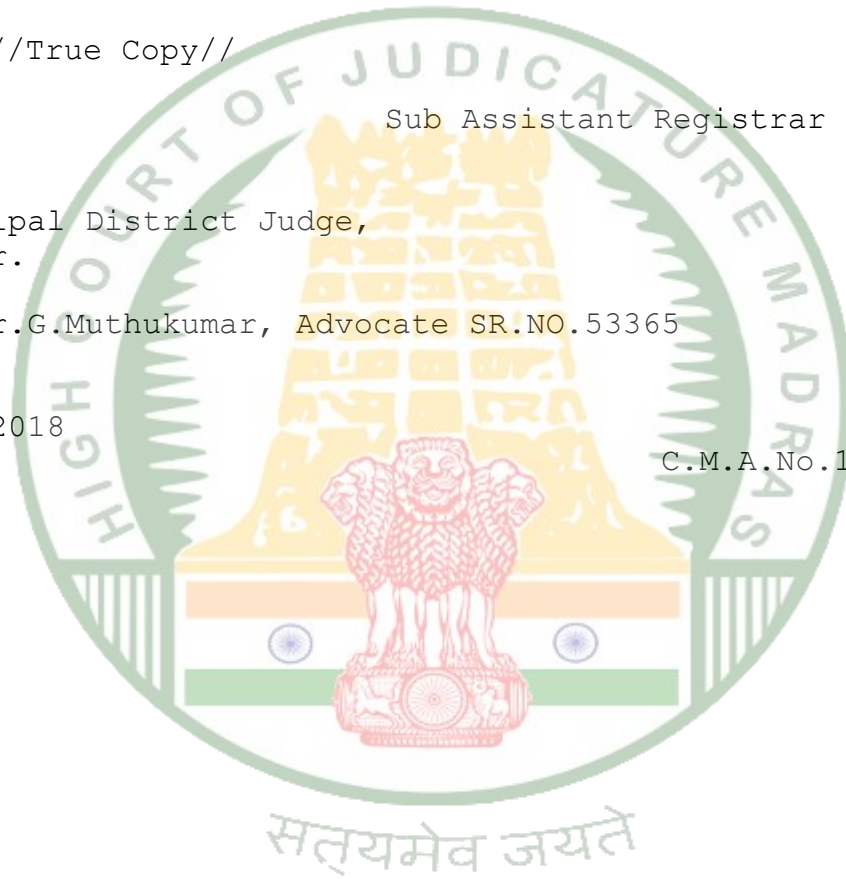
To

The Principal District Judge,
Tiruvallur.

+1cc to Mr.G.Muthukumar, Advocate SR.NO.53365

MR(CO)
sm:11.10.2018

C.M.A.No.1744 of 2012



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