



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.03.2018

Coram:-

**THE HON'BLE DR.JUSTICE S.VIMALA**

**and**

**THE HON'BLE MRS.JUSTICE T.KRISHNAVALLI**

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Civil Miscellaneous Appeal Nos.656 and 657 of 2017

A.Vetrikumaran

... Appellant/Respondent  
in both appeals

-vs-

M.Keerthana

...Respondent/Petitioner  
in both appeals

**Prayer in CMA No.656/2017:** Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act against the judgment and decree dated 09.03.2016 passed in HMOP No.633 of 2015 on the file of the Family Court Judge, Madurai.

**Prayer in CMA No.657/2017:** Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act against the judgment and decree dated 09.03.2016 passed in HMOP No.648 of 2015 on the file of the Family Court Judge, Madurai.

(in both appeals)

For Appellant : Mr.Y.Jacob  
For Respondent : Mr.R.Suriyanarayanan

COMMON JUDGMENT

(Judgment of the Court was delivered by S.Vimala,J.,)

The judgment and decree passed by the Family Court, Madurai in HMOP No.633/2015 and 648/2015 dated 09.03.2016, is under challenge in these Civil Miscellaneous Appeals.

2.The husband has filed the petition in HMOP No.648/2015 on the file of the Family Court, Madurai, seeking a relief of divorce. The application for divorce has been dismissed by the judgment and decree dated 09.03.2016. By the same order, the application for restitution of conjugal rights as prayed for by the wife has been allowed.

3. The husband has filed the appeal in CMA No.656 of 2017 challenging the dismissal of the divorce petition and challenging the grant of decree for restitution of conjugal rights, CMA.No.657/2017 has been filed.



4. Pending the appeal, the matter has been referred to the Mediation and Conciliation Centre and the Mediation Centre was successful in effecting settlement between both the parties.

5. The terms and conditions of compromise entered into in the Mediation Centre reads as follows:

"1. Both the parties have decided that there is no scope for reunion among the couple.

2. The Appellant/Husband has agreed to pay an amount of Rs.15,00,000/- (Rupees fifteen lakhs only) as one time payment for the maintenance towards permanent alimony of the wife/respondent and female child namely Raaganya.

3. The respondent/wife has agreed to give back the jewels available with her.

4. The father of the appellant/husband shall settle property by executing gift deed in the name of grand daughter Raaganya situated at Madurai South Taluk Virakanur Pirakudi Village, Sundararajapuram, Srimariamman Nagar Nanjai Old Re.survey No.76/3 UDR Patta No.39 Re-survey No.1/3 Plot No.32 total exten 2085 sq. ft.

5. The household articles and utensils including silver articles belonging to the respondent presently available in the house of the appellant/husband should be returned to the respondent/wife.

6. Both the appellant/husband and respondent/wife have mutually agreed to apply for divorce and obtain the same.

7. Since the parties have consented for mutual divorce the Hon'ble Court may consider the awarding the divorce.

8. The custody of child Raaganya shall be solely with the respondent/wife.

9. The appellant/husband shall have rights to visit the child (Raaganya) and take her in his shelter for six days consecutively once in a quarter (three months). The time and period of six days shall be decided in accordance with the health condition and examination schedule of the child.

10. Both parties hereby agreed that there will not be any further claim against each other in future.

11. All the terms will be executed by both parties within two(2) months."

<https://hcservices.ecourts.gov.in/hcservices/>

6. Today, when the parties appeared before this Court along with respective counsels, the counsel for both sides have



submitted that the terms of agreement as entered to into between the parties in the Mediation Centre has been fulfilled by both the parties mutually and there is nothing more to be performed. Under such circumstances, the learned counsel for the appellant would submit that the decree for divorce must be granted.

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7. The wife, who is present before this Court, has no objection for this Court to consider the grant of divorce for the husband.

8. The parties have filed their joint compromise memo, which is as follows:

" The appellant filed an appeal in CMA No.656/2017 against the judgment and decree dated 09.03.2016 made in HMOP No.633/2015 on the file of the Family Court, Madurai, allowing the petition for restitution of conjugal rights filed by the respondent.

He also filed an appeal in CMA No.657/2017 against the judgment and decree dt.09.03.2016 made in HMOP No.648/2015 on the file of the Family Court, Madurai, dismissing the divorce petition filed by him.

During the pendency of the said appeals, the matter is referred to the Mediation Centre of this Hon'ble High Court and wherein the parties came to a settlement and accordingly, the respondent is given consent to divorce by setting aside the order in HMOP No.648/2015 and by allowing the appeal in CMA No.657/2017, without admitting the allegations and the ground therein and to set aside the decree of restitution of conjugal rights made in HMOP No.633/2015 by allowing the appeal in CMA No.657/2017. The other terms of compromise in the mediation report may be read as part and parcel of this memo and accordingly, these appeals may be allowed.

Therefore, it is humbly prayed that this Hon'ble Court may be pleased to allow both the appeals in terms of the compromise memo filed by both the parties herewith and thus render justice.

Dated at Madurai on the 2<sup>nd</sup> day of March, 2018"

9. Considering the nature of litigation between both parties and considering the nature of settlement, this Court is inclined to accept the joint memo of compromise by both the parties.

<https://hcservices.ecourts.gov.in/Hcservices> not necessary for both the parties to observe the cooling period of six months, as no useful purpose will be served, as the terms of compromise between the parties remain fulfilled.



11. Under such circumstances, the joint memo of compromise is recorded and the decree for divorce is granted in favour of the husband and as against the respondent. This joint memo of compromise shall form part of the decree. The decree of divorce granted shall be treated as decree for divorce by mutual consent.

12. These Civil Miscellaneous Appeals are allowed as indicated above. No costs.

Sd/-  
Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To:

The District Judge, Family Court,  
Madurai.

**Copy to:**

The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai. (2 Copies)

+1 cc to Mr.R.SURIYA NARAYANAN, Advocate, SR.52767

Civil Miscellaneous Appeal Nos.656 and 657 of 2017  
02.03.2018

RR  
VB/SV-MMS/S4:16.04.2018:4P/5C