

**THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD**

F.C.A.Nos.53 and 61 of 2018

02.03.2018

Between:

K.Srinivas Kiran

..Appellant

and

K.Sai Laxmi

..Respondent

Counsel for the appellant: Mr.G.Rajesh for Mrs.D.Pramada

Counsel for the respondent: Mr.M.W.R.Jayakar

The Court made the following:



COMMON JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

The appellant is the husband of the respondent. The respondent filed O.P.No.585 of 2010 on the file of the Principal Judge, Family Court, Hyderabad, under Section 9 of the Hindu Marriage Act, 1955 (for short 'the Act') for restitution of conjugal rights. The appellant, in turn, filed O.P.No.1486 of 2012 before the same Court, under Section 13(i)(ia) of the Act seeking dissolution of his marriage with the respondent. Both the O.Ps. were heard and disposed by common order, dated 01.09.2017, whereby O.P.No.585 of 2010 was allowed and O.P.No.1486 of 2012 was dismissed. Assailing the common order in both the O.Ps., the appellant has filed these appeals.

2. A joint petition *viz.*, I.A.No.2 of 2018 in F.C.A.No.53 of 2018 signed by both the parties has been filed seeking dissolution of the marriage based on mutually agreed terms. In paragraph 3 of the affidavit filed in support of the said I.A., it is stated that by memorandum of understanding, dated 26.09.2017, both the parties settled the disputes out of Court; that as per the said settlement, articles were exchanged by the parties; that gift settlement deed, *vide* document No.800 of 2018, dated 23.01.2018, was executed and registered by the appellant in favour of the respondent and that two demand drafts (D.Ds.) for Rs.20,00,000/- (Rupees twenty lakhs only) each in favour of the two minor children have also been taken

by the appellant and handed over to the respondent in full and final settlement of all the claims of the respondent and also the two minor children. In paragraph No.4 of the affidavit, it is stated that C.C.No.69 of 2011 filed by the respondent for the offences punishable under Sections 498-A, 448, 497 and 506 I.P.C. ended in acquittal on 12.10.2017 and that as per the terms and conditions of the aforementioned memorandum of understanding, the respondent shall cooperate for closure of D.V.A.Nos.418 and 934 of 2016. The parties have, accordingly, prayed for grant of decree of divorce by dissolving the marriage between them on mutual consent.

3. Today, at the hearing, both the appellant and the respondent are personally present. The respondent has admitted her entering into the settlement with the appellant and receiving the articles, gift deed and the two D.Ds. for Rs.20,00,000/- (Rupees twenty lakhs only) each towards maintenance of herself and the two minor children. She has also agreed for dissolution of her marriage with the appellant without any further claims by or against each other.

4. Though the prayer in I.A.No.2 of 2018 in F.C.A.No.53 of 2018 did not specifically seek amendment of the prayer in O.P.No.1486 of 2012, in substance, the parties have asked for such prayer based on the mutual settlement. Accordingly, treating the

said I.A. as filed seeking amendment of the prayer in O.P.No.1486 of 2012 for dissolving the marriage under Section 13-B of the Act, the said I.A. is allowed in terms of memorandum of understanding, dated 26.09.2017, the substance of which has been incorporated in the affidavit filed in support of the I.A. and accordingly, the marriage between the parties shall stand dissolved under Section 13-B of the Act without any further claims between the parties against each other.

5. Common order, dated 01.09.2017, in O.P.Nos.585 of 2010 and 1486 of 2012 is, accordingly, set aside and O.P.No.1486 of 2012 and F.C.A.Nos.53 and 61 of 2018 are allowed.

6. As a sequel to allowing the F.C.As., I.A.No.1 of 2018 in F.C.A.No.61 of 2018 filed by the appellant for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

GUDISEVA SHYAM PRASAD, J

16th February, 2018

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