

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

I.A.Nos.4 and 5 of 2018

In/and

CMA.No.421 of 2018

and

C.M.A.No.424 of 2018

Date:10.10.2018

Between:

E.R.Vamsi Krishna,
S/o E.Radhakrishna

.....Appellant

And:

P.Himanandini,
W/o E.R.Vamsi Krrishba

.....Respondent

Counsel for the appellant: Mr. P.Bhavana Rao

Counsel for the respondent: Mr. Ram Prasad Pattipaka

The Court made the following:

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

The husband of the respondent filed these two Civil Miscellaneous Appeals against common order, dated 18.12.2017, in HMOP.Nos.132 of 2013 and 13 of 2015 on the file of the Principal Senior Civil Judge, Chittoor, whereby he has decreed HMOP.No.132 of 2013 filed by the respondent for restitution of conjugal rights and dismissed HMOP.No.13 of 2015 filed by the appellant for dissolution of marriage.

At the hearing, both the parties are personally present.

Learned counsel for both the parties have drawn our attention to para-7 of the affidavit, filed in support of I.A.No.4 of 2018 in C.M.A.No.412 of 2018, filed seeking amendment of HMOP.No.132 of 2013 by adding para-21(a) and substituting para No.22 as under:

“21 (a) The petitioner and respondent have been residing separately since December, 2011. They have not been able to live together and they have mutually agreed that their marriage should be dissolved under Section-13-B of the Hindu Marriage Act, 1955.

(22) Petitioner prays for a decree for dissolution of marriage with respondent by mutual consent under Section-13-B of the Hindu Marriage Act, 1955.”

The appellant filed I.A.No.5 of 2018 for grant of decree of divorce by mutual consent. This I.A. contains terms of settlement which read as follows:

“The petitioner/appellant will pay to the respondent a sum of Rs.11,00,000/- (Rupees Eleven lakhs only

as permanent alimony. The said amount is hereby tendered by way of a demand draft drawn in favour of the respondent bearing No.516392 dated 03.10.2018 drawn on ICICI Bank. The respondent is satisfied on receipt of the said amount of Rs.11 lakhs as being in full and final settlement of all her claims against the petitioner/appellant. The respondent hereby agrees that upon a decree of divorce being passed, she will not make any claim whatsoever against the petitioner/appellant and will not interfere with the life or property of the petitioner/appellant in future. Similarly, the petitioner/appellant agrees that he has no claim whatsoever against the respondent and will not interfere with the life or property of the respondent in future. The petitioner/appellant is herewith handing over to the respondent the following items (a) gold chain, (b) ring, (c) bracelet, (d) silver articles and (e) clothes. Similarly, the respondent is herewith handing over to the petitioner/appellant gold chain and ring. These articles are mutually exchanged as agreed upon between the parties.

Both the parties have decided to withdraw the allegations made by them against each other in their respective HMOPs.”

During the hearing, the appellant handed over the Demand Draft for a sum of Rs.11 lakhs to the respondent and both have requested the Court that their marriage may be dissolved by mutual consent under Section-13-B of the Hindu Marriage Act, 1955 (for short ‘the Act’). To facilitate such dissolution, the appellant filed I.A.No.5 of 2018 in C.M.A.No.412 of 2018 for grant decree of divorce by mutual consent by dissolving the marriage between the parties under Section-13-B

of the Hindu Marriage Act, 1955, by dispensing with the requirement of waiting for six months.

In the light of the above, I.A.Nos.4 and 5 in C.M.A.No.412 of 2018 are ordered.

In the result, CMA.No.412 of 2018 is allowed and the decree in HMOP.No.132 of 2013 granting decree for restitution of conjugal rights is set aside and the said HMOP, as amended, is decreed by granting decree of divorce by mutual consent. CMA.No.424 of 2018 is allowed and the decree in HMOP.No.13 of 2015 is set aside.

As a sequel to disposal of the Civil Miscellaneous Appeals, interim order, dated 14.8.2018, in I.A.No.1 of 2018 in CMA.No.412 of 2018 is vacated and I.A.Nos.1 and 2 in CMA.No.412 of 2018 are disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE GUDISEVA SHYAM PRASAD

10th October, 2018

DR