

THE HONOURABLE SRI JUSTICE C. PRAVEEN KUMAR

And

THE HONOURABLE SRI JUSTICE T. AMARNATH GOUD

I.A.No.1 of 2018
In/and
C.M.A.No.880 OF 2015

JUDGMENT: (per Hon'ble Sri Justice C.Praveen Kumar)

1) Aggrieved by the order and decree dated 26.10.2015, passed in O.P.No.68 of 2015 on the file of the Senior Civil Judge, Huzurnagar, wherein an application filed by the appellant under Section 9 of Hindu Marriage Act, 1955 seeking restitution of conjugal rights, was dismissed, the present appeal came to be filed.

2) The facts in issue are as under:

The appellant herein filed O.P.No.68 of 2015 seeking restitution of conjugal rights, where as the respondent herein filed O.P.No.66 of 2013 seeking dissolution of the marriage. Vide common order and decree dated 26.10.2015, the learned Senior Civil Judge, Huzurnagar, allowed the O.P. filed by the husband seeking divorce and dismissed the application filed by the wife seeking restitution of conjugal rights. Challenging the same the present appeal is filed by the appellant/ wife.

3) During pendency of the appeal, I.A.No.1 of 2018 came to be filed seeking divorce by mutual consent. Along with the said application, the parties herein also filed a memorandum of understanding.

4) Today, the appellant and respondent are present. Smt. Dr.J.Vijayalakshmi, Advocate, identified the appellant and Sri S.Chandra Mohan Reddy, Advocate, identified the respondent. When examined, the appellant stated that at the instance of the elders, they have settled the matter out of the Court and both the parties agreed to stay separately in terms of the compromise. The affidavit filed in support of the application also indicates the same. The terms of compromise are as under:

- a) The respondent agreed to pay an amount of Rs.50,00,000/- to the appellant towards the permanent alimony and maintenance as full and final settlement in lieu of all her claims and future claims with an agreement to go for mutual divorce. Further, the appellant agreed to withdraw DVC No.7 fo 2012 on the file of the First Class Magistrate, Huzurnagar and the father of the respondent also agreed to withdrawal of O.S.No.559 of 2011 pending before the II Additional Junior Civil Judge, Warangal.
- b) The respondent is paying an amount of Rs.50,00,000/- through demand draft in favour of the appellant vide Demand Drafts No.980261, 980262, 980263, 980264 and 980265 for Rs.9.00 lakhs each and another demand draft No.980266 for Rs.5.00 lakhs, of Bank of India, Warangal Branch, towards the permanent alimony and maintenance

as full and final settlement in lieu of all her claims and future claims.

- c) The appellant is agreeing acknowledging and accepting that she is receiving the above referred Rs.50,00,000/- only as permanent alimony and discharge of all her claims of past, present and future maintenance.
- d) The gold ornaments and silver articles belonging to the appellant and her personal belongings, which are now with the respondent are handed over to Sri Bommididi Ravinder, who is a mediator and the said person would hand over the articles under a receipt to the appellant at the time of filing the memo.
- e) The appellant agreed that Rs.50,00,000/- as the permanent alimony and maintenance as full and final settlement in lieu of all her claims and future claims against respondent.
- f) All the allegations by the appellant and respondent which were made by them in all the pleadings, notices and elsewhere made against each other are hereby withdrawn by them and the order and decree passed in O.P.No.68 of 2005 on the file of the Senior Civil Judge, Huzurnagar is deemed to be non-exist in view of filing of the joint memo.
- g) The appellant agreed to withdraw DVC No.7 of 2012 on the file of the First Class Magistrate, Huzurnagar, and the father of the respondent agreed for withdrawal of O.S.No.559 of 2011 pending before the II Additional Junior Civil Judge, Warangal.
- h) The appellant and the respondent both agreed that they shall not file any cases against each other in future and shall lead their respective lives without any interference from either of the family members.

5) Further, the respondent handed over demand drafts worth Rs.50,00,000/- to the appellant and the appellant stated that she has no objection for granting divorce. She also agreed to receive the silver and gold ornaments and her personal belongings from Sri Bommidi Ravinder after withdrawal of the cases.

6) Having regard to the facts and circumstances stated above and taking into consideration the compromise arrived at between the parties, we deem it appropriate to dispose of the appeal in terms of the memorandum of compromise.

7) Accordingly, I.A.No.1 of 2018 is allowed and the marriage between the appellant and defendant dated 06.11.2013 is hereby dissolved, by granting mutual consent divorce. Consequently, C.M.A.No.880 of 2015 is disposed of in terms of compromise. Miscellaneous petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

C. PRAVEEN KUMAR, J

T. AMARNATH GOUD, J

28.03.2018

Note: Issue C.C. by Monday

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