

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

**THE HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HONOURABLE SRI JUSTICE P. KESHA VA RAO**

CIVIL MISCELLANEOUS APPEAL No.678 OF 2017

Date:20.12.2018

Between:

Eswaravaka Janardhana Reddy
S/o.Dasaradharami Reddy, R/o.Sullurpet Village & Mandal,
SPSR Nellore District.

... Appellant

v.

Eswaravaka Nirshana W/o.Eswaravaka Janardhana Reddy
R/o.Sullurpet Village & Mandal, SPSR Nellore District.

.. Respondent

For Appellant : Mr. C. Subodh

For Respondent : Mr. S.A. Razak

Gist :

Head Note :

Cases Referred : Nil

C/15

THE HONOURABLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HONOURABLE SRI JUSTICE P. KESHA VA RAO

CIVIL MISCELLANEOUS APPEAL No.678 OF 2017

JUDGMENT: *(Per V. Ramasubramanian, J)*

This appeal is filed by the husband challenging the dismissal of a petition filed by him for the dissolution of marriage on the ground of cruelty and desertion.

2. During the pendency of the appeal, both parties have entered into a compromise. It appears from the memo of compromise that the husband/appellant filed a petition for dissolution of marriage in HMOP No.46 of 2012 on the file of the Senior Civil Judge at Gudur against the wife/respondent. It was dismissed by the Court below forcing the husband to come up with the above appeal.

3. The parties are present in Court. They produced their Aadhar Cards and their identity was found to be correct. The parties have filed a joint memo of compromise. They have confirmed the terms of compromise. The joint memo of compromise reads as follows:

“It is submitted that the petitioner/appellant herein filed HMOP No.46 of 2012, on the file of Court of Senior Civil Judge at Gudur as against me for dissolution of our marriage under sec 13(1) (ia) and (ib) of Hindu Marriage Act to dissolve the marriage on the ground of Cruelty and desertion. The court below consideration of law and facts dismissed the same vide its orders Dt.12.04.2017. Aggrieved by the same, petitioner/appellant prefer the appeal.

It is further submitted that aggrieved by the HMOP No.46 of 2012 the petitioner/appellant herein filed appeal in CMA No.678 of 2017 respectively before this Hon’ble Court.

It is further submitted that the petitioner/Appellant and Respondent herein at the instance of elders and well-wishers came to an understanding with an outcome of compromise, as such both are intending to amend the relief sought by the petitioner/appellant. The Respondent herein has expressed her willingness to dissolve the marriage held by the petitioner and the Respondent herein on mutual consent. Both the parties agreed for dissolution of their marriage by a decree of divorce by mutual consent and agreed to allow HMOP No.46 of 2012.

It is submitted that the petitioner/appellant herein has paid an amount of Rs.13,00,000/- (Rupees thirteen lakhs only) by way of pay orders Nos.630254 dated 17.12.2018 for Rs.5 lakhs and pay order No.630255 dated 18.12.2018 for Rs.8 lakhs both drawn on Andhra Bank, Sullurpet Branch, in favour of respondent i.e., Eswaravaka Nirishana and Rs.13,00,000/- (Rupees Thirteen Lakhs only) paid by way of pay orders No.630252 dated 17.12.2018 for Rs.9 lakhs and pay order No.630253 dated 17.12.2018 for Rs.4 lakhs both drawn on Andhra Bank, Sullurpet Branch, in faovur of Eswaravaka Lohitha i.e., to their minor daughter towards full and final settlement of all claims against the petitioner herein including permanent alimony to the respondent herein and maintenance to our minor daughter Lohitha who is aged about 11 years now. The said amount is paid to me by way of DD's and I will deposit the amount given to our daughter in fixed deposit in any nationalized bank for a period of seven years. The said responsibility of keeping the amount in fixed deposit in the name of Eswaravaka Lohitha will be taken up by Jayampu Chandra Reddy, S/o.Chenga Reddy and Chillakuru Ravindra Reddy S/o.Pola Reddy who acted as mediators. There are no claims against each other in future. This joint memo has been entered and executed with the will and wish of the petitioner/appellant and respondent herein. Hence this Joint Memo."

4. The parties have affirmed that there are no further or other claims against each other.

5. Though the dissolution of marriage was sought on the ground of cruelty and the Court below found that there was no evidence to establish cruelty, what stands established at least is the factum of desertion.

6. Therefore, the appeal is allowed, the judgment decree of the Senior Civil Judge, Gudur, are set aside and there will be a decree of dissolution of marriage on the ground of desertion.

As a sequel thereto, miscellaneous petitions, if any pending,
shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

P. KESHAVA RAO, J

December 20, 2018

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