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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.S.A. No.14 of 2016

Thanigaivel

... Appellant/Petitioner

-vs-

Malliga

... Respondent/Respondent

Prayer: Civil Miscellaneous Second Appeal filed under Section 28 of the Hindu Marriage Act read with Section 100 of the Civil Procedure Code against the fair and decretal order dated 27.07.2015 in C.M.A. No.5/2014 on the file of learned Principal District Judge, Villupuram confirming the fair and decretal order dated 24.03.2014 in H.M.O.P. No.15/2012 on the file of the 2<sup>nd</sup> Additional Subordinate Judge, Villupuram.

For Appellant : Mr.N.Suresh

For Respondent : Mr.D.Kumaralingam

#### JUDGMENT

Learned counsel appearing for both sides requested this Court to dispose of the Appeal on the basis of the joint memo of compromise dated 28.01.2019 filed by the appellant and the respondent. The terms of joint memo of compromise reads as under:

'It is respectfully submitted that the Appellant/Husband filed H.M.O.P. No.15 of 2012 before the learned II Additional Subordinate Court, Villupuram for divorce and the same was dismissed by the learned Judge by an order dated 24.03.2014. Aggrieved by the same, he preferred CMA. No.5 of 2014 on the file of the Principal District Court, Villupuram. The learned Principal District Court, Villupuram, confirmed the fair and decretal order passed in H.M.O.P. No.15 of 2012. Aggrieved by the same the appellant has filed the above Civil Miscellaneous Second Appeal.

It is respectfully submitted that pending above appeal, the appellant and the respondent have decided to settle the matter. Accordingly after mediation and negotiations by all the parties concerned, the Appellant has offered to pay a sum of Rs.6,00,000/- to the respondent as permanent alimony. The respondent has agreed for the same and consented for dissolution of



marriage. Both the parties have further agreed to withdraw all the allegations raised against each other.

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It is respectfully submitted that in pursuance to the aforesaid mutual agreement, today i.e. 28.01.2019, the appellant has paid Rs.6,00,000/- by D.D. Dated 09.01.2019 bearing No.282617 to the respondent as permanent alimony. The receipt of which sum, the respondent is hereby acknowledge the same. The respondent is hereby give consent for dissolution of her marriage solemnised with the appellant on 11.04.2010 at VTB Thirumana Mandapam, Embalam Village, Puducherry.

It is respectfully submitted that there is no collusion between the parties in filing the above joint compromise memo. The consent given by one party to the other is not by force or by fraud or that either of them exerted undue influence on the other. The respondent hereby gives up all her rights of past and future maintenance or otherwise from the appellant including maintenance of the child.

It is respondent submitted that this Joint compromise Memo may be recorded in the above appeal and this Hon'ble Court may pass such further orders or order as may deem fit and proper in the circumstances of the case and thus render justice.'

2.Learned counsel appearing for the appellant would submit that while both the parties appeared before this Court on 09.01.2019 and presented the joint memo of compromise, the Court could not record the same and therefore, it is unnecessary to the parties to be present again.

3.Learned counsel appearing for respondent fairly submitted that the Demand draft for Rs.6,00,000/- has been received and the same has been encashed.

4.In view of the above submissions, the Civil Miscellaneous Appeal is disposed of in terms of the joint memo of compromise, which shall form part of the decree. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar



3

To

1.The Principal District Judge,  
Villupuram.

2.The 2<sup>nd</sup> Additional Subordinate Judge,  
Villupuram.

+1 cc to M/s.N.Suresh, Advocate Sr.No. 50340

AKM/12.11.19/3P-4C /

C.M.S.A. No.14 of 2016