

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.01.2019

Coram

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN
C.M.S.A.No.8 of 2017

Selvaraj ... Appellant/ Petitioner

versus

Padmavathy ... Respondent / Respondent

Prayer : The Civil Miscellaneous Second Appeal is filed under Section 28 of Hindu Marriage Act r/w Section 100 of Civil Procedure Code to set aside the Judgment and Decree passed in C.M.A.No.10 of 2012 on the file of the Principal District Judge, Tiruppur, dated 11.10.2012 confirming the Judgment and decree in H.M.O.P.No.65 of 2007 on the file of the Sub-Court, Udumalpet, dated 30.03.2011.

For Appellant : Mr.D. Muthuselvam
For Respondent : Mr. E. Ganesh

JUDGMENT

This Civil Miscellaneous Second Appeal is filed to set aside the Judgment and Decree passed in C.M.A.No.10 of 2012 on the file of the Principal District Judge, Tiruppur, dated 11.10.2012 confirming the Judgment and decree in H.M.O.P.No.65 of 2007 in the file of the Sub-Court, Udumalpet, dated 30.03.2011.

2. Today, when the matter is taken up for hearing, a joint compromise memo was filed by both the parties and the learned counsel appearing on both sides submitted, that the matter has been settled out of the Court. Since, the matter has been settled out of the Court the Joint Compromise memo forms part of the order, hence it is extracted hereunder:

" The Appellant humbly submits as follows:-

1. The Appellant submits that he married the respondent on 17.01.1985 which is a love marriage. During the wedlock a son was born, who was christened Pradeep Chandran. Later some misunderstanding arose between the appellant and the respondent. Hence, the discard increased after the demise of the son on 21.01.2003. The appellant filed

divorce petition in H.M.O.P.No.65 of 2007 before the Sub-Court, Udumalpet. The same was dismissed on 30.01.2011. Against the Judgment and decree, the appellant preferred an appeal before the Principal District Judge, Tiruppur in C.M.A.No. 10/2011. The learned Principal District Judge also confirmed the Judgment and the decree of the trial Court and dismissed the appeal filed by the appellant. Aggrieved by the Judgment and decree of the Courts below, the appellant filed appeal before this Hon'ble Court in C.M.S.A.No.8/17.

2. The appellant submits that pending appeal, the appellant and the respondent have compromised the matter out of the Court. The appellant and the respondent have entered into a compromise on the following conditions:-

i. The appellant/husband pays a sum of Rs.8,50,000/- to the respondent as full and final settlement through cheque No.278902. Punjab National Bank, Tiruppur Branch, dated 17-12-2018.

ii. The respondent/wife agrees for the grant of divorce to her husband/appellant; and wife agrees to withdraw the maintenance case pending on the file of Judicial Magistrate No.I, Udumalpet in M.C.No.1/2015;

iii. The respondent/wife has no any further claim from her husband/appellant and the appellant/husband has no claim against the respondent/wife."

3. Based on the memo filed by both the parties this Court is inclined to allow this Civil Miscellaneous Second Appeal and accordingly this Civil Miscellaneous Appeal is allowed. The joint compromise memo form part of this order. No costs.

*Here enclosed the xerox Copy of Joint Compromise Memo

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

smn
To

1.The Principal District Judge,
Tiruppur

2.The Subordinate Judge,
Udumalpet

3.The section officer,
VR Section,
High court
Madras

+1cc to Mr.R.Prabhakar , Advocate SR.No. 1670

+1cc to Mr. D.Muthuselvam, Advocate SR.No. 1563

C.M.S.A.No.8 of 2017

A.SK(26/03/2019)



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