

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated : 21.01.2019****CORAM :****THE HONOURABLE MR. JUSTICE M.S.RAMESH****CRP.(PD).Nos.3583 & 3586 of 2018
and
C.M.P.Nos.20069 & 20073 of 2018**

K.M.Sanjay Kumar .. Petitioner in both CRPs.

V.

Dr.M.Suchitra .. Respondent in both CRPs.

COMMON PRAYER : Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the petitions and docket orders dated 10.10.2018 made in I.A.Nos.40 & 42 of 2018 in HMOP.No.7 of 2018 on the file of the learned Subordinate Judge, Gobichettipalayam by allowing these Civil Revision Petitions.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.SA.Shanmugam

COMMON ORDER

The orders under challenge in the present revisions are against the orders allowing the application in I.A.No.40 of 2018 filed under Order 7 Rule 14(3) CPC to receive a list of documents and the application in I.A.No.42 of 2018 filed under Order 16 Rule 6 CPC to call for certain receipts from the professional courier office.

2.Heard Mr.N.Manokaran, learned counsel for the petitioner and Mr.SA.Shanmugam, learned counsel for the respondent.

3.Pending these revisions, the parties have amicably resolved the disputes among themselves, whereby they have agreed to have their marriage solemnized on 15.09.2014, dissolved in terms of the compromise. Both the parties have filed a joint memorandum of compromise dated 21.01.2019 agreeing to the following terms and conditions:

JOINT MEMORANDUM OF COMPROMISE

The parties herein, who are the husband and wife respectively, have entered into compromise after much discussions and deliberations between themselves and they have arrived at the following terms and conditions:-

1.It is submitted that the marriage was solemnized between the parties herein on 15.09.2014 at Gobichettipalayam according to Hindu customs and rites. No children were born to the parties out of their wedlock.

2.That parties herein submits that on account of lack of adjustment and misunderstanding they are unable to live together and are living separately from

11.11.2017. All the efforts taken by the elders, friends, mediators and persons interested in the family of both, have failed and the parties herein have mutually decided to part ways between themselves in the matrimonial life;

3.That the petitioner/husband and respondent/wife for purchase of peace and compromise arrived between both parties, the parties herein shall withdraw their respective allegations made in HMOP.No.7 of 2018 before the learned Sub Court, Gobichettipalayam, Erode District.

4.That the parties herein shall not have any claim with regards to maintenance or other aspects in any form as against each other for the past, present and future.

5.That the parties herein have exchanged all the jewelery both gold and silver and cash either party shall not have any claim as against the other.

6.That the parties herein shall not institute any case or complaint against each other or their respective parents and their relatives, in view of the matter between the parties being settled on this day and in the event of any complaint being lodged and which has not come

to the knowledge of the petitioner/husband and respondent/wife shall withdraw the same, unconditionally.

7.That there is no coercion or undue influence in filing this joint compromise memo between both the parties.

Therefore, it is just and necessary that this Hon'ble Court may be pleased to pass an order of divorce dissolving the marriage of the petitioner/husband and respondent/wife herein solemnized on 15.09.2014 and pass such other order/orders as this Hon'ble Court deems fit and proper under the circumstances of the case.

Dated at Chennai on this the 21st day of January 2019.

Signed by the parties and the respective counsels."

4.In normal circumstances, when the parties have resolved to have their marriage dissolved mutually, it would be desirable to direct them to file an application under Section 13(B) of the Hindu Marriage Act. Nevertheless, it is seen that the petition for divorce was instituted in the month of January 2018 and both the parties have been living separately for a considerable time. Though Section

13(B) of the Hindu Marriage Act bars a divorce from being granted before the expiry of six months period from the filing of the divorce petition by mutual consent, the procedure has been liberalized by the Hon'ble Supreme Court in a decision in **Amardeep Singh Vs. Harveen Kaur** reported in **2017 (5) CTC 565**. As per the observations made in the said judgment of the Hon'ble Apex Court, the object of the six months period was only to safeguard against an hurried decision and to explore if there was otherwise a possibility for reconciliation. While observing so, the six months period contemplated under Section 13(B) of the Hindu Marriage Act was held only to be directory in nature and not mandatory.

5. Since the parties have been before the learned Sub-ordinate Judge, Gobichettipalayam for about a year and since they have also mutually agreed to have their marriage dissolved, no useful purpose would be served by directing them to file an appropriate application for mutual consent. In this background, this Court is of the view that the joint memorandum of compromise can be accepted and the marriage between the parties also be dissolved.

6. In the light of the foregoing reasonings and by recording the terms of the Joint Memorandum of Compromise dated 21.01.2019 entered into between the parties, the marriage solemnized on

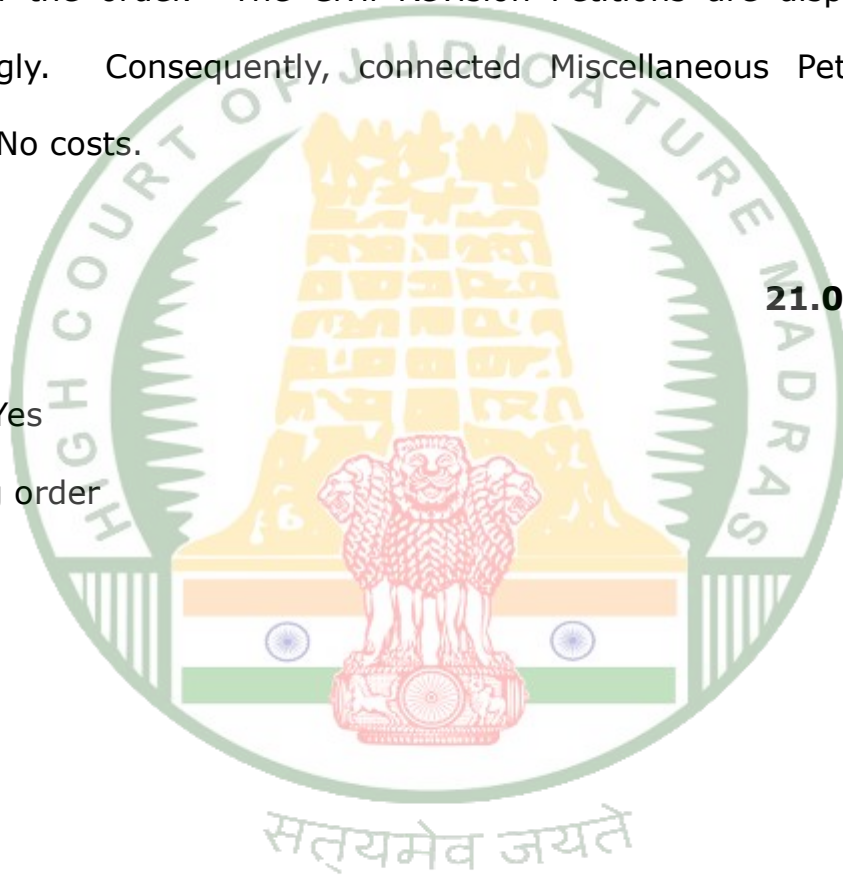
15.09.2014 between K.M.Sanjay Kumar, S/o.K.K.Murugaperumal and M.Suchitra, D/o.G.S.Muruganantham shall stand dissolved in terms of the Joint Memorandum of Compromise. The Joint Memorandum of Compromise dated 21.01.2019 shall form part and parcel of the order. The Civil Revision Petitions are disposed of accordingly. Consequently, connected Miscellaneous Petition is closed. No costs.

21.01.2019

Index : Yes

speaking order

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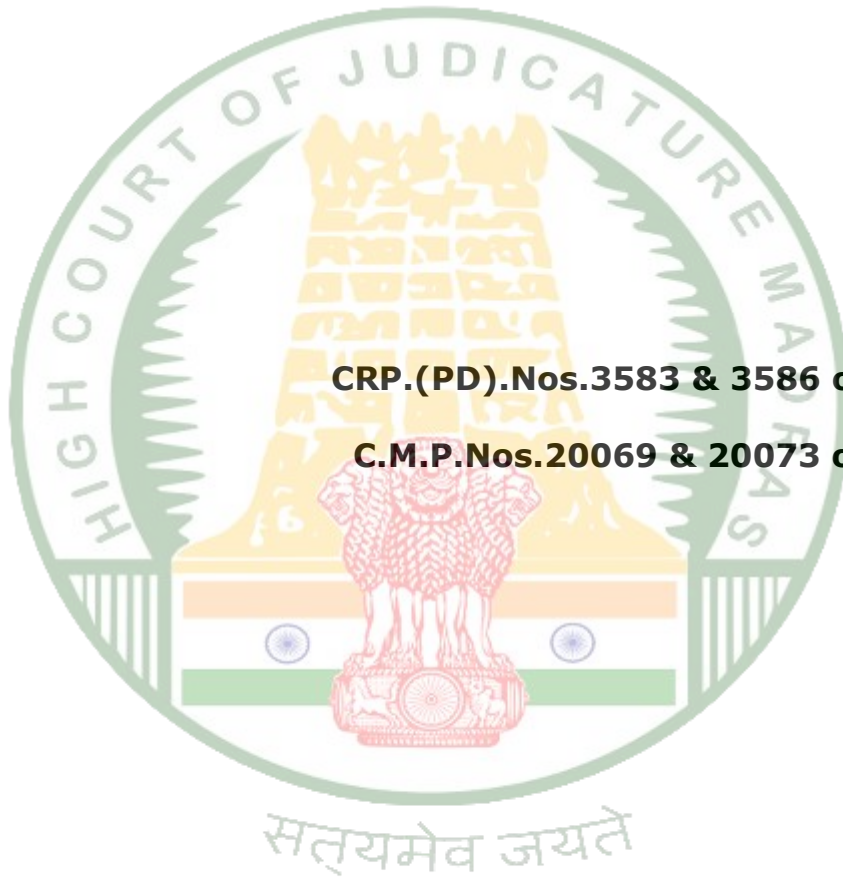
To

The Sub Court,
Gobichettipalayam.

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M.S.RAMESH.J,

DP



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