



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.04.2019

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
C.M.S.A. (MD) Nos.21 of 2018 and 4 of 2019

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C.M.S.A. (MD) .No.21 of 2018 :

A.Gurunathan

... Appellant /
Appellant / Petitioner

Vs.

Sathya

... Respondent /
Respondent / Respondent

PRAYER : Civil Miscellaneous Second Appeal filed under Section 28 of the Hindu Marriage Act r/w Section 100 of the Civil Procedure Code, against the judgment and decreetal order, dated 15.02.2018, passed in C.M.A.No.45 of 2017 by the Principal District Judge, Dindigul, confirming the judgment and decreetal order dated 27.02.2017 passed in H.M.O.P.No.33 of 2016 by the Subordinate Judge, Kulithalai, Karur District.

C.M.S.A. (MD) .No.4 of 2019 :

A.Gurunathan

... Appellant /
Appellant / Respondent

Vs.

Sathya

... Respondent /
Respondent / Petitioner

PRAYER : Civil Miscellaneous Second Appeal filed under Section 28 of the Hindu Marriage Act r/w Section 100 of the Civil Procedure Code, against the judgment and decreetal order, dated 04.09.2018, passed in C.M.A.(HM)No.8 of 2018 by the Principal District Judge, Trichy, confirming the judgment and decreetal order dated 08.01.2018 passed in H.M.O.P.No.56 of 2016 by the Subordinate Judge, Thuraiyur, Trichy District.

For appellant in
both the appeals : Mr.T.Senthilkumar

For respondent in
both the appeals : Mr.H.Lakshmishankar

COMMON JUDGMENT

C.M.S.A.No.21 of 2018 has been filed by the appellant/husband against the concurrent judgment passed by the Courts below



dismissing the divorce petition filed by the appellant / petitioner. C.M.S.A.No.4 of 2019 has been filed by the appellant/husband against the concurrent judgment passed by the Courts below allowing the petition for restitution of conjugal rights.

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2. When the matter came up for hearing today, the learned counsel appearing for both sides submitted that both the parties have entered into an agreement and the parties have also agreed for the grant of divorce by allowing both the appeals and to that effect, they have also filed a Joint Compromise Memo, dated 29.04.2019. The Joint Compromise Memo, dated 29.04.2019, reads as follows:

"1)The appellant herein husband and respondent herein his wife. Both got married on 06.12.2009. Thereafter, due to difference on opinion both of them deserted from matrimonial relationship. The appellant/husband herein filed divorce petition in H.M.O.P.No.33 of 2016 against the respondent/wife and the same was dismissed. Meantime respondent/wife filed restitution of conjugal rights in H.M.O.P.No.382 of 2014 and the same was allowed. The appellant/husband herein challenging both the order filed appeal and both dismissed by the respective appellate Court. Hence, the appellant/husband herein challenging the same filed appeal before this Hon'ble Court.

2.It is submitted that pending before appeal after intervention of elder members in the family, both the appellant/husband and respondent/wife compromise their issue between them through out of Court and come forward for one time settlement between them in order to purchase the peace.

3.The appellant/husband agreed to pay a sum of Rs.40,00,000/- (Rupees forty lakhs only) through Demand Drafter drawn on State Bank of India in favour of S.Sathiya D.D.Nos.1)934592 dt. 24.04.2019, Rs.9,00,000/-; 2) 934593 dt. 24.04.2019 Rs.5,00,000/- ; 3) 934534, dt. 24.04.2019 Rs.8,00,000/-; 4) 934600 dt. 25.04.2019 Rs.9,00,000/-; 5) 934601 dt 25.04.2019 Rs.9,00,000/- total amount Rs.40,00,000/- (Rupees forty lakhs only) to the respondent/wife.

4)The respondent/wife agreed to receive the above said amount as permanent alimony and willing to give divorce to the appellant/husband. Further the respondent/wife has no objection for allowing the both above C.M.S.A. in favour of the appellant/husband.

5) Further the respondent/wife filed



maintenance case against the appellant/husband in M.C.No.19 of 2014 pending on the file of the learned Judicial Magistrate at Thuraiyur and she also filed Domestic Violence case against the appellant/husband and the same is pending in D.V.C.No.3 of 2017 pending on the file of the learned Judicial Magistrate at Thuraiyur. Now due to settlement arrived between the parties, the respondent/wife hereby undertakes to withdraw the above mentioned cases on the next hearing date before the learned Judicial Magistrate, Thuraiyur.

6)As per the above terms, both the parties shall not and will not indulge in any litigation in future against them in respect of the matrimonial dispute in any manner and there was no claims against each other. The parties hereto have agreed to conclude the litigation in the above said manner based on this memo."

3. Recording the above submission of the learned counsel for both sides and the Joint Compromise Memo, dated 27.04.2019, both the Civil Miscellaneous Second Appeals are allowed, thereby the concurrent judgments refusing the decree of divorce and granting the decree of restitution of conjugal rights are set aside and the parties are hereby granted decree of divorce. The Joint Compromise memo shall form part and parcel of the decree. Both the parties shall scrupulously follow the terms of the Joint Compromise Memo. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

Encl:Xerox copy of Joint Compromise memo

To

1.The Principal District Judge,
Dindigul.

2.The Principal District Judge, Trichy

3.The Subordinate Judge,
Ramanathapuram District.



4.The Subordinate Judge,
Thuraiyur, Trichy District

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-63672[F] dated
29/04/2019)

gcg

Judgment made in
C.M.S.A. (MD) Nos.21 of 2018
and 4 of 2019
29.04.2019

KM/ (24.07.2019) 4P 6C