

HIGH COURT FOR THE STATE OF TELANGANA

**THE HON'BLE THE ACTING CHIEF JUSTICE
RAGHVENDRA SINGH CHAUHAN
AND**

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

I.A.Nos.1 and 2 of 2019

IN/AND

C.M.A.No.441 of 2018

Date: 29.04.2019

Between:

Kondamalla Sandeep Kumar

...Appellant

and

Kondamalla @ Damera Jhyothesna and another

...Respondents

Counsel for the appellant: Mr. P. Mehar Srinivasa Rao

Counsel for the respondent No.1: Mr. Konka Rajender

The Court made the following:

Common Judgment: *(per the Hon'ble the Acting Chief Justice Raghvendra Singh Chauhan)*

Both the appellant, Mr. Kondamalla Sandeep Kumar, and the first respondent, Mrs.Kondamalla @ Damera Jyothsna, are present before this Court. Both of them have submitted their Aadhar cards before this Court in order to establish their respective identities. They have also been identified by their respective counsel. Both the parties are *ad idem* that they have entered into a compromise.

The appellant has challenged the legality of the order and decree dated 05.02.2018, passed by the Principal District Judge, Warangal, in Divorce O.P.No.365 of 2016, whereby the learned Judge had dismissed the petition filed by the appellant under Section 11 of the Indian Divorce Act, 1869 (for short 'the Act') for seeking divorce from the respondent-wife.

However, during the pendency of the present appeal, both the parties have agreed to compromise, and to seek dissolution of their marriage on the basis of mutual consent under Section 10-A of the Act. A copy of the Agreement of Dissolution of Marriage executed on 08.03.2019 at Hanamkonda, has been filed along with I.A.No.1 of 2019. The same shall be taken on record.

The terms of the compromise read as under:

"1) Both parties hereby withdrawing the allegations made against each other in Divorce O.P.No.365 of 2016 and other cases in between them.

2) Both parties voluntarily with free consent agreed for dissolution of their marriage solemnized on 05.12.2014 in between them by mutually.

3) The First Party agreed and accepted that he will pay an amount of Rs.1,00,000/- (Rupees one lakh only) vide D.D.No.690383, dated 04.02.2019 to the Second Party towards permanent alimony and future maintenance and Rs.2,00,000/- (Rupees two lakhs only) to the daughter Baby Varsha vide D.D.No.690384, dated 04.02.2019 and the Second Party has received today and both parties accepted the same.

4) The Second Party voluntarily agreed to withdraw the Criminal Case filed by her against the First Party and his family members bearing C.C.No.1026 of 2017 on the file of the Special Judicial Magistrate of First Class for Excise at Warangal and the same is pending under Sections 498-A, 342 and 506 I.P.C. and Sections 3 and 4 of Dowry Prohibition Act and also agreed to withdraw the Maintenance Case No.100/2017 on the file of the Family Court at Warangal filed against the First Party.

5) In view of the gap between both the parties in leading marital life, both parties have decided to dissolve their marriage on mutual consent, for which the permanent alimony was fixed of Rs.3,00,000/- (Rupees three lakhs only) (for Second Party as well as daughter). Both parties have undertakes that they will not claim any right over each other in any changed circumstances in all aspects. The Second Party hereby agreed that she will take the custody of child namely 'Varsha' aged about 3 years and she undertakes that she will look after the child and the First Party agreed for the same and further will not interfere with the Second Party and child in future and further the Second Party agreed that she and daughter will not interfere and claim anything against the First Party in future.

6) That both the parties undertakes that they will not file any case or any claim or right, whatsoever on either side of parties in any Court including Sub-Courts, High Court or Apex Court in future on their properties and rights delivered on account of their marriage is hereby relinquished.

7) That both the parties agreed that after dissolution of marriage they are at liberty to lead their life as per their choice and both parties undertake that they will not interfere with each other.

8) That both the parties agreed from today onwards shall not have any right or interest over each other in any manner in all aspects.

9) The parties hereby declares and undertake that they do not exist any article or belongings of either of the party with other party to be exchanged, as they were already exchanged.

10) That the First and Second Parties agreed that they have no right either movable or immovable properties belongs to each other.

11) That the First and Second parties further agreed that they have no interest claim or right against each other in any manner and further Second Party has agreed for allowing the appeal pending before the Hon'ble High Court by granting Dissolution of Marriage.

12) That there is no collusion between both the parties in respect of Divorce on Mutual Consent and there are no other cases pending in between both the parties in any Court of law.

13) Both parties agreed to pass decree of divorce dissolving the marriage dated 05.12.2014.”

The respondent-wife informs this Court that she has already received an amount Rs.1,00,000/- vide D.D.No.690383, dated 04.02.2019, towards permanent alimony and future maintenance, and a further amount of Rs.2,00,000/- for her daughter, Baby Varsha, vide D.D.No.690384, dated 04.02.2019.

As the parties have separated their ways since 2016, the statutory period prescribed under Section 10-A of the Act is, hereby, dispensed with.

Hence, the marriage entered between the parties, dated 05.12.2014, is hereby dissolved.

Accordingly, I.A.Nos.1 and 2 of 2019 are allowed, and this appeal stands disposed of.

The Registry is directed to draw up the decree in terms of the compromise mentioned herein above.

(RAGHVENDRA SINGH CHAUHAN, ACJ)

(A.RAJASHEKER REDDY, J)

Date: 29.04.2019
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