



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 21ST DAY OF DECEMBER, 2020

THE HONBLE MR. JUSTICE N. SATHISH KUMAR

O.P NO.495 of 2020

and

O.A NO.584 of 2020

and

H.M.O.P.No.357 of 2020

In the matter of the Guardian
and Wards Act 1890

and

In the matter of Minor child
N.Sahana born on 13.05.2018

R.Sharmiley,
D/o K.Ravi
No.4B, Shabari Arul Flats,
12/13, Karthick Avenue,
Thirumagal Nagar 2nd Street,
Chitlapakkam,
Chennai 600 073

... Petitioner/Applicant
(Petitioner in H.M.O.P.357 of 2020)
Vs.

N.Ga.Natraj,
S/o N.Ganagasapathy,
H 01, Raaj Sesh Mahal Apartment,
No.32, Bharathi Ula Road,
Madurai 625 002
And permanently residing at
“BALAJEES”
107/1, Courtallam Road,
Melagaram,
Tenkasi 627 818

... Respondent/Respondent
(Respondent in H.M.O.P.357 of 2020)

O.P.No.495 of 2020

Original petition praying that this Hon'ble Court be pleased to

a) That the petitioner herein may be appointed as the Gaurdian of the person of the minor child N.Sahana born on 1305.2018

b) To grant permanent custody of the minor child N.Sahana born on 13.05.2018 to the petitioner;

O.A NO.584 OF 2020

Original Application praying that this Hon'ble Court be pleased to grant an order of interim injunction restraining the respondent, his parents or their men or hirelings from unlawfully entering into the applicant/petitioner's residence at No.4B, Shabari Arul Flats, 12/13, Karthick Avenue, Thirumagal Nagar 2nd Street, Chitlapakkam, Chennai – 600 073 in the guise of visiting the minor child N.Sahana born on 13.05.2018 either at the residence or anywhere else pending disposal of the main petition under the Guardian and Wards Act.

H.M.O.P.No.357 of 2020

Original Petition praying that this Hon'ble Court be pleased to grant a judgment and decree:

a) Dissolving the marriage solemnized between the petitioner and respondent on 08.09.2013 at Esakki Mahal, Tenkasi, Tamil Nadu as per



the Joint II Sub-Registrar, Tenkasi under the Tamil Nadu Registration of Marriages Act, 2009 in Serial No.105 of 2013 dated 07.10.2013 on the grounds of cruelty under section 13 (1) (i-a) of the Hindu Marriage Act.

(b) Direct the respondent to pay a sum of Rs.1,00,00,000/- (Rupees one crore only) as permanent alimony to the petitioner under section 25 of the Hindu Marriage Act.

(c) the costs of this petition.

This Original Petition and application alongwith H.M.O.P.357 of 2020 coming on this day before this court for hearing in the presence of Mrs. K.Sumathi, Advocate for the petitioner in OP No.495 of 2020 and for the applicant in O.A 584 of 2020 and for the petitioner in H.M.O.P.No.357 of 2020 and Mr.R.Singaravelan Senior Counsel for M/s.V.L.Akshai SajinKumar and M.Rajamani, Advocate for the respondent in O.P.No.495, O.A.No.584 of 2020 and H.M.O.P.No.347 of 2020 and upon reading the petition filed in OP.495/2020 and H.M.O.P.No.357 of 2020 transferred from the Sub Court, Tambaram and the order dated 11/12/2020 made in O.A.584/2020 and Memo of Compromise and Memorandum of understanding signed by the petitioner and the respondent with their respective advocates and this court having observed that for granting



however, taking into consideration of the facts and circumstances of the case, for granting divorce by mutual consent, six months waiting period can be waived by the court of law, and having regard to the fact that the husband and wife have separated themselves more than a year from 14.09.2019 as per the pleadings this court is of the view that waiting period of six months can be waived, and this court pass an order in term of Memorandum of Compromise and Memorandum of understanding morefully set out in the schedule hereunder,

it is ordered as follows:-

That R.Sharmiley, the petitioner herein, be and is hereby appointed as the guardian of the minor child N.Sahana, born on 13.05.2018.

2. That the petitioner herein, be and is hereby granted permanent custody of the minor child N.Sahana, born on 13.05.2018.

3. That the marriage solemnized between the petitioner and respondent on 08.09.2013 at Esakki Mahal, Tenkasi, Tamil Nadu as per Hindu rites and ceremonies and the marriage was registered at the Office of the Joint II Sub-Registrar, Tenkasi under the Tamil Nadu Registration of Marriages Act, 2009 in Serial No: 105 of 2013 dated 07.10.2013 be and is hereby dissolved on the grounds of cruelty under section 13 (1) (i-a) of the Hindu Marriage act; by mutual consent.



4. That the petitioner/First Party herein, shall agree to withdraw the allegation made in HMOP No.357/2020 filed by her U/s 13(1) (i-a) of the Hindu Marriage Act against the respondent/second party for divorce on the file of Learned Sub-Judge, Tambaram to be heard along with Guardian O.P and take legal steps to dissolve the marriage by mutual consent u/s 13B of the Hindu Marriage Act.

5. That the petitioner/First Party herein shall withdraw all the allegations leveled in the HMOP and Guardian O.P. Filed by her against the respondent herein.

6. That the Parties hereto, shall waive their claims against each other in past, present and future in respect of alimony, maintenance, litigation cost, or articles of any nature, personal belongings and any other demands whatsoever.

7. That the first party/wife/petitioner herein, declares that she shall not file any petition for any maintenance either for herself or for the minor child who is her lawful custody for past, present and future.

8. That both parties hereto, declares thaty they have mutually exchanged all the articles, valuables, testimonials and materials belonging to them and there is no further exchange that needs to be done and both of them shall have no right to make any claims in respect of any articles from



9. That the Respondent/Second Party herein, waives his entire rights of visitation on the minor child N.Sahana born on 13.05.2018, it shall be the entire responsibility of the petitioner to maintain the child, take care of her expenses towards maintenance, education, her marriage and all her future expenses and the petitioner herein, waives all her right to make any monetary claims either for herself or for her minor child in past, present and future.

10. That both the parties hereto, undertakes that they shall not take any civil or criminal action against each other or their respective family members against the person or property and they shall not interfere against each other or their respective parents in any manner or any nature and not make any claim or demand whatsoever.

11. That if there be any proceeding initiated by any parties against the other and the same is now pending the parties the parties agree to withdraw the same duly and there is no claim in future against each other and both the parties declares that they shall not make any claim against the properties possessed by the respective parties now and in future.

12. That after the grant of divorce, both parties shall not interfere with the personal life of the other in any manner whatsoever, and they are free to lead their life without the interference of the other and carry on their job and live peacefully in any place of their choice.



13. That both parties hereto give an undertaking and solemnly declare that there is no coercion, threat or undue influence in arriving at this memo of understanding and no other similar case is pending against both the parties in any other court of law.

(Schedule – MOC and MOU)



K.S /nk

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01/04/2021

O.P.No. 495 of 2020
and
O.A.No. 504 of 2020
and
H.M.O.P.No.357 of 2020

ORDER:

DATED: 21/12/2020

THE HONBLE MR.JUSTICE
N.SATHISH KUMAR

FOR APPROVAL:28/07/2021

APPROVED ON:30/07/2021

Copy to:-

The Sub-ordinate Court,
Tambaram.



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(b) Direct the respondent to pay a sum of Rs.1,00,00,000/- (Rupees one crore only) as permanent alimony to the petitioner under section 25 of the Hindu Marriage Act.

(c) the costs of this petition.

This Original Petition and application alongwith H.M.O.P.357 of 2020 coming on this day before this court for hearing in the Court made the following order:-

Original Petition No.495 of 2020 has been filed to appoint the petitioner as the guardian and seeking custody of the minor child N. Sahana born on 13.05.2018.

2. H.M.O.P.No.357 of 2020 filed by the Petitioner/wife for divorce on the ground of cruelty, before the Sub-Ordinate Court, Tambaram, was transferred as per the order of this Court dated 11.12.2019.

3. Today, both the husband and wife present before this court and filed Memorandum of Understanding and Memorandum of Compromise in



respect of custody of the child and divorce. They have also reported before this Court that both of them are consented for divorce by mutual consent.

4. In the Memorandum of Understanding besides the husband and wife, parents of both the parties and their respective counsels have signed and the parties have agreed not to interfere the life of others. The Memorandum of Understanding and compromise are recorded. The Petitioner, Respondent, parents of the Petitioner and father of the Respondent are present in the physical hearing. They are agreed for having signed the Memorandum of compromise and the Memorandum of Understanding. In such a view of the matter, these two O.P.s are disposed of in terms of Memorandum of Understanding and compromise.

5. Accordingly, O.P.No.495 of 2020 disposed in terms of the understanding reached between the parties in respect of the custody of the minor child N. Sahana born on 13.05.2018.

6. In respect of the H.M.O.P.No.357 of 2020 pending on the file of the Sub-ordinate Court, Tambaram and transferred to this Court by order of this Court is also to be disposed of in terms of Memorandum of

understanding and Memorandum of Compromise reached between the



parties. Though, application for divorce has been filed on the ground of cruelty, raising so many allegations, now agreed to give up all the allegations, the Respondent is consented to give divorce.

6. This Court is also aware of the fact that for granting divorce by mutual consent, waiting period of six month is mandatory. However, taking into consideration of the facts and circumstances of the case, for granting divorce by mutual consent, six months waiting period can be waived by the Court of law. Having regard to the fact that the husband and wife have separated themselves more than a year from 14.09.2019 as per the pleadings, this Court is of the view that waiting period of six months can be waived. Accordingly, decree of divorce granted by mutual consent, in view of the Memorandum of Undertaking entered between the parties. The Memorandum of Compromise and the Memorandum of Undertaking shall form part of the decree.

7. In the result, O.P.No.495 of 2020 is **allowed** and H.M.O.P.No.357 of 2020 transferred from the file of Sub-ordinate Court, Tambaram, to the file of this Court and is **decreed** in terms of Memorandum of Understanding and Memorandum of Compromise.

Memorandum of Compromise and Meorandum of Undertaking shall form



part of the order. The Registry is directed to mark a copy of this order to the Sub-ordinate Court, Tambarm, informing the disposal of the H.M.O.P.by this Court.

Sd/-N.S.K.J.

21.12.2020

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.