

O.A.No.584 of 2020
in O.P.No.495 of 2020

N.SATHISH KUMAR, J.

COMMON 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.

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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.

21.12.2020

Index : Yes

Internet: Yes

Speaking/Non-speaking order

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