

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.No.2764 of 2019

Ragini Balaji

.. Petitioner

Vs.

Raja

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India seeking a direction to the learned Subordinate Judge, Tambaram to pre-pone the hearing in H.M.O.P.No.438 of 2019 and issue fresh summons to the respondent by re-fixing the hearing.

For Petitioner : Mr.R.Chandrasudan

For Respondent : Mr.K.T.Sankar Subramanian

O R D E R

Revision has been filed seeking a direction to advance the hearing in H.M.O.P.No.438 of 2019, pending on the file of the learned Subordinate Judge, Tambaram.

2. The petitioner/wife has filed the said petition for divorce. Since the matter has been adjourned to a very long date, revision has been filed seeking to advance the hearing. Pending revision, the matter was referred to Mediation.

3. Now, it is informed that the matter has been settled in the Mediation and the parties have filed the Settlement Agreement dated 18.12.2019, which reads as under:

"7. The following settlement has been arrived at between the parties hereto:

8. The petitioner Mrs. Ragini Balaji and the respondent Mr. Raja have mutually agreed to file separate petition under Section 13 (B) of the Hindu Marriage Act, 1955 to dissolve the marriage between the petitioner and the respondent, which was solemnized on the 14th Day of June 2010 at Uppliappan Temple, Kumbakonam by mutual consent within a period 30 days from today before the competent court.

9. On filing of 13(B) petition, and the same being numbered, the petitioner has agreed to withdraw the divorce petition filed in O.P.No.438 of 2019 pending on the file of the Sub-Court, Tambaram at the time of recording evidence in mutual consent petition filed by them. In the event of failure to conclude the proceedings in mutual consent petition on account of any lapses on the part of any parties or withdrawal of consent by anyone of the parties, both the parties shall be free to proceed with the case on merits. The Petitioner undertakes to withdraw the police complaints only after filing and numbering of the 13(B)Petition to ensure that the Police does not bother the Respondents or his relatives in any manner as the jewels and documents have already been handed over on 16.12.2019.

10. The petitioner Ragini Balaji has agreed to withdraw the pending criminal complaint. The parties have agreed to withdraw all the allegations raised in the petitions, counters, applications and all other proceedings unconditionally without any reservation immediately after passing of decree in mutual consent petition.

11. The petitioner Ragini Balaji has given up the claim of maintenance absolutely including lifetime alimony against the respondent Raja subject to passing of final order in mutual consent petition. The respondent Raja shall have no claim whatsoever against Ragini Balaji. Ragini also undertakes to file necessary forms with the Regional Passport Office to remove the name of Mr.Raja from her passport within 30 days of receipt of the divorce decree.

12. The respondent has voluntarily agreed to bear the educational expenses of the minor child Keshav, the fees will be remitted to the concerned school directly. Thereafter the respondent shall provide the

remittance challan to the petitioner. In case of change of school, the petitioner will intimate the respondent in advance enabling him to remit the fees.

13. The respondent has also agreed to return the household articles; dress materials and other articles that are in his possession to the petitioner at the earliest. The respondent has already returned the specified items of jewels listed below in Madras High Court Mediation center:

Bangle - 1
1 Pair Red- Green Bangle
1 Necklace with Black Beads
1 Set Simple Bangle
1 Chain with Dollar
1 Chain Keshav
1 Thaali Chain, 1 Chain with Dollar
1 Pair Baby Bangle
1 Pair Silver Anklet
3 Rings, 1 Adduku Earrings, 1 Pair Diamond Earrings
1 Pair Diamond Earrings Keshav

The petitioner has acknowledged the receipt of the above Articles.

14. Both the parties shall undertake not to resort any other proceedings before any other forums of law relating to the matrimony in future and all issues pertains to the matrimonial relationship have been treated as closed/settled amicably subject to passing of final order in mutual consent petition.

15. The minor son Keshav aged about 6 Years is under the care and custody of the petitioner Ragini Balaji. The Respondent Raja has agreed that the custody and guardianship of the Minor Son Keshav, now aged about 6 years, will continue to remain with the petitioner Ragini Balaji and the respondent Raja or his family members will not seek/claim for custody or guardianship of the child as long as Ragini is capable of having custody.

16. The respondent Raja is entitled for visitation right once in a week. The day of the week will be in alternative Saturday/Sunday. In week 1 of Saturday he will pick up the child directly from school after school session and drop back the child in the Petitioner's house at 9 PM. In week 2 of Sunday the Respondent will pick up the child on Sunday morning from the Petitioner's house at 9 AM and drop him back at 6 PM Sunday Evening. In this manner the Respondent will get to meet the child every week. On that day of visitation, the respondent is entitled to have the temporary custody of minor Child Keshav and he can take a child to the place of his choice

17. The Respondent shall also be entitled to have custody of the child for any one half of the day during important festivals like Pongal and Diwali. The Respondent shall also be entitled to take the child on a vacation anywhere in India for a period of 4 days at the time of December/Christmas holidays or Navaratri Pooja holidays. Thereafter, the respondent shall be entitled for a period of 5 days at the time of Summer holidays by informing of the dates of his intended custody on those days well in advance to the petitioner through email raginibalaji.cse@gmail.com.

18. The Petitioner shall not remove the child, from the jurisdiction of India for a period more than 30 days without prior intimation to the Respondent. Such information shall be given 30 days prior to such date of travel.

19. In case the respondent relocates to some other place, country, Skype Videocalls on a daily basis shall not be hindered by the Petitioner. The respondent shall have all rights to conduct poonal and marriage of the minor child subject to concurrence of the petitioner as regard to fixing of auspicious date and manner in which performance of ceremonies. The petitioner shall also cooperate for the same.

20. The respondent Raja undertakes that hereinafter he shall not resort to sending

communications in any form including sending SMS, e-mail or letter and phone calls whatsoever to the petitioner Ragini Balaji in future unless it relates to Minor Keshav. The Petitioner Ragini shall maintain a Email id raginibalaji.cse@gmail.com to contact by Respondent Raja to communicate regarding Keshav.

21. In case anyone of the parties violates this condition, the aggrieved party is entitled to enforce the terms of the compromise through legal recourse in the manner known to law.

22. By signing this agreement the parties hereto state that they have no further claims or demand against each other with respect to CRP PD No. 2764 of 2019 which in turn filed in continuance of the proceeding in OP. No. 438 of 2019 on the file of Sub- Court, Tambaram and all disputes and differences in this regard have been amicably settled between the parties hereto through the process of conciliation and meditation."

4. Today, both the parties were present before the Court along with their respective counsel and submitted that they have settled the dispute through mediation and further submitted that orders may be passed in terms of the settlement dated 18.12.2019.

5. In view of the above circumstances, the revision is disposed of in terms of the settlement dated 18.12.2019. The said settlement dated 18.12.2019, shall form part of this order. No costs. Consequently, the connected miscellaneous petition is closed.

(*) Family Settlement Agreement enclosed herewith.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Subordinate Judge, Tambaram.

+1 cc to M/s.Rohini Ravikumar,Advocate Sr.No. 4619

+1 cc to M/s.R.Chandra sudan,Advocate Sr.No. 3780

AKM/24.01.2020/5P-4C /

C.R.P.No.2764 of 2019