

C.M.P.No.17486 of 2017
in
CRP.No.3030 of 2017

M.GOVINDARAJ, J.

This Civil Miscellaneous Petition is filed to modify the final order passed by this Court in C.R.P.PD.No.3030 of 2017 dated 22.08.2017 and to direct the trial Court to first dispose of the interim application for maintenance in I.A.No.516 of 2016 and then stipulate a time for disposal of the main Original Petition from the date of the disposal of I.A.No.516 of 2016.

2. Today, when the matter came up for hearing, learned counsel appearing for the respondent submitted that the respondent has given two DD's for a sum of Rs.30,00,000/- each in favour of the minor children. Learned counsel further submitted that the parties have filed a petition for divorce on mutual concern before the Family Court and seeks for speedy disposal of the interim application in I.A.No.516 of 2016 and then a time limit may be given to dispose of the H.M.O.P.No.2398 of 2014.

3. A Joint Memo of Compromise dated 14.02.2020 is filed before this Court to that effect.

4. The joint memo of compromise filed by the parties reads as under:-

“1.The petitioner filed O.P.No.2398 of 2014 before the Hon'ble III Additional Family Court, Chennai and the same is pending. The petitioner preferred C.R.P.(PD).No.3030 of 2017 before this Hon'ble Court for speedy disposal and the respondent filed C.M.P.No.17486 of 2017 in the same. Both parties submit that they are not residing together from June 2011 due to temperamental incompatibility. The petitioners have mutually decided to go in for a divorce, as there is no possibility for them to re-unite. The matter was heard on various dates in His Lordship's Chamber and the parties have arrived at an amicable settlement and in view of the same they are filing this Joint Memo of Compromise on the following terms and conditions:

a. The petitioner and the respondent agree to file a petition for divorce by mutual consent under Section 13 B of the Hindu Marriage Act before the Hon'ble Family Court, Chennai. The petitioner and the respondent in view of the same shall withdraw all other petitions, applications, etc. filed before the Hon'ble Family Court against each for enabling the filing of the mutual consent petition. The presentation of the mutual consent petition and the withdrawal of all other petitions, applications in O.P.No.2398 of 2014 by both parties shall happen on the same day.

b. The petitioner and the respondent jointly own an apartment at B23, Parijatham Block, Shantinikethan Apartments, City Link Road, Adambakkam, Chennai – 600 088. The respondent agrees to give up her entire rights on the ownership of this property by relinquishing her rights and transferring the rights to the petitioner by means of signing a release / settlement deed in favour of the petitioner within one week of recording this memo of Compromise and upon receipt of the amount of Rs.30,00,000/- (Rupees Thirty Lakhs only) each in favour of the Two Minor Daughters as detailed in Clause C hereunder. The respondent categorically declares that she will not raise any dispute in respect of the release / settlement deed that she executes before any Court or forum at any point of time.

c. The petitioner has this day obtained a DD for a sum of Rs.30,00,000/- each in the name of the minor daughters Srushti and Vedhika as a onetime settlement for their future maintenance. The original DDs have been handed over by the petitioner to Mr.Bhaskar, counsel for the petitioner. A copy of both the DDs are attached herewith this petition. The DD will be retained by Mr.Bhaskar, counsel for the petitioner and will be handed over to the respondent on completion of the release / settlement deed of the property discussed in clause (b) herein above. A copy of the draft of the release deed is attached along herewith the petition. The petitioner has paid the school tuition fees and any other mandatory fees of both the daughters for the

academic years 2018-2019 and 2019-2020 as on 14 February 2020.

d.The respondent shall file petition under the Guardian and Ward Acts before the Hon'ble Family Court, Chennai seeking appointment of herself as the Guardian of the minor children and the petitioner herein has undertaken to give a consent affidavit on the date of filing and the petition by the petitioner under the Guardian and Wards Act agreeing the respondent herein to be a decree therefor. The petitioner can visit the children on prior intimation during his visits to Chennai and he should come after making a call or sending an email to the respondent and / or her elder daughter Srushti as she is aged 16 years on this day. The phone number and the e-mail id of the daughters shall be shared with the petitioner. Should there be a change in the email or the phone number in future, they shall mutually communicate the same.

e.The respondent shall not claim any damages, maintenance or alimony for herself past, present and future as a consequence of this marriage.

f.Both the petitioner and the respondent declare that they have mutually exchanged all their articles and belongings. Both do not have custody of any articles belonging to the other party and they have taken back all their belongings including jewels and have no further claim in respect of any articles and jewels.

g.Both parties hereby undertake that they will not claim

anything against each other at any time in the present and future of filing of this petition either in this Court or any other higher courts in India. Both the petitioners declare that they will not initiate any other proceedings in respect of this matrimonial dispute or properties under any law in this country or in any foreign country in future. Both the parties declare that they will not file any proceedings, both Civil and Criminal, against the other party or their respective family members in future. Both parties submit that there is no other similar petition filed by the parties before any other Court.

h.Both the parties submit that there is no collusion or connivance in filing this petition and the consent has not been obtained by threat, force, coercion, undue influence or fraud. Both the parties submit that they agreed to this joint memo of compromise and the petition for mutual consent for divorce in Hon'ble Family Court, Chennai in conscious, aware and stable state of mind.

i.Both the parties agree to appear before the Family Court, Chennai on the date of final hearing of the Mutual Consent petition and Guardian and Wards Act without seeking adjournment.

Hence, the petitioner and the respondent pray that this Court may be pleased to pass suitable orders as this Court deemed fit and render justice."

5. In view of the joint memo of compromise filed before this Court, a direction is given to the Trial Court to dispose of the interim application in I.A.No.516 of 2016 as early as possible and to take up the H.M.O.P.No.2398 of 2014 and dispose of the same within a period of two months from the date of disposal of the I.A. The joint memo of compromise shall form part of the records. The Civil Miscellaneous Petition filed to modify the final order passed by this Court in C.R.P.PD.No.3030 of 2017 dated 22.08.2017 is ordered accordingly.

28.02.2020

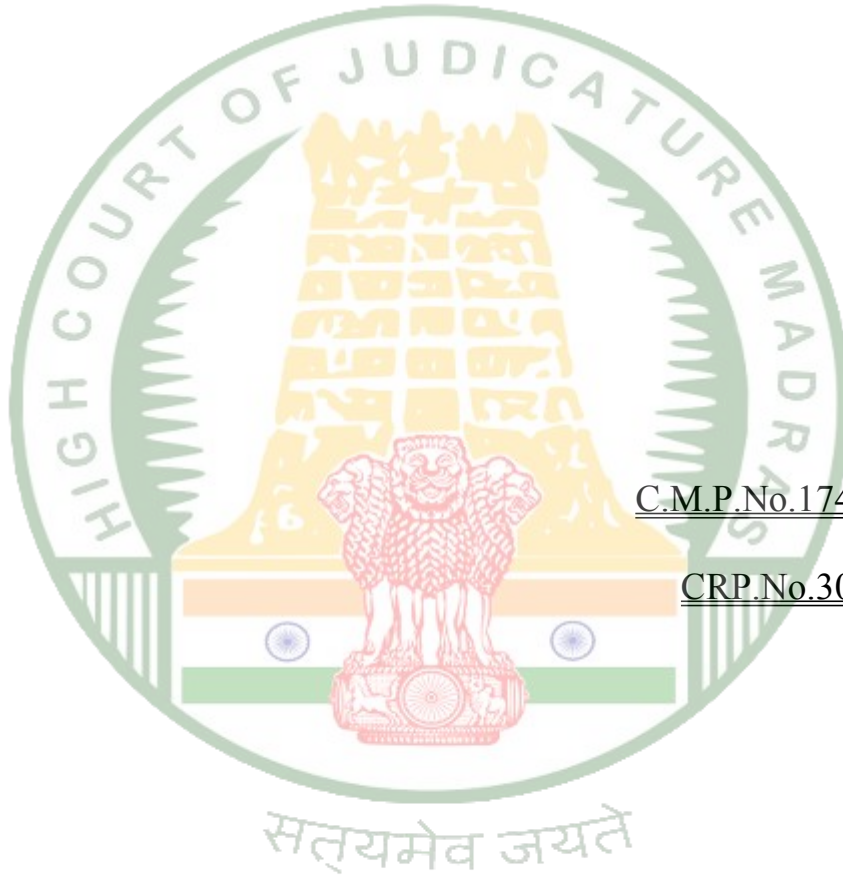
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