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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2021

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

C.M.A. No.1869 of 2020
and CMP.No.13842 of 2020

Varsha Mahaveer ...Appellant/Petitioner

Vs.

Mahaveer Chand Bora ...Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 (1) of Family Court Act to set aside the decree and judgment passed by the VI Additional Principal Judge, Family Court, Chennai dated 18.01.2020 passed in I.A.No.5196 of 2018 in O.P.No.1101 of 2018 and allow this appeal.

For Appellant: Mr.M.K.Kabir, S.C.
for Mr.T.Jayaraman

For Respondent: Party-in-person

J U D G M E N T

[Judgment of the Court was delivered K.KALYANASUNDARAM, J]

The appeal is heard through video conferencing.

2. This appeal has been filed to quash the order passed in I.A.No.5196 of 2018 in O.P.No.1101 of 2018 on the file of the VI Additional Principal Judge, Family Court, Chennai.

3. The marriage between the appellant and the respondent was solemnized on 07.02.2010 and a child viz., Charvi was born to them on 17.05.2012. Due to the dispute that arose between them, Original Petition No.1101 of 2018 was filed by the appellant/wife seeking divorce on the ground of cruelty.

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I.A.No.5196 of 2018 was filed seeking monthly maintenance. Pending the appeal before this Court, the parties have arrived at a settlement deciding to dissolve the marriage. A joint memo of compromise dated 22.11.2021 has been filed signed by the parties and the counsel for the appellant. The joint memo of compromise is extracted hereunder:

"JOINT MEMO OF COMPROMISE FILED BY THE PARTIES ABOVE NAMED

1. During the pendency of the above Appeal, before before this Hon'ble Court, this Hon'ble Court suggested to explore the avenue of settlement between the parties. As it has become impossible to live together, the only option left was to dissolve the marriage and ensure the minor girl child, Charvi is adequately provided for her welfare and maintenance, even though the appellant is only a home maker without any income.

2. Accordingly, this Hon'ble Court directed the respondent to settle the matter by providing adequate safeguard for the welfare and maintenance of the minor child. After much deliberation, the respondent has agreed to settle two properties in the name of the minor child and also deposited a sum of Rs.15,00,000/- in Fixed Deposit in the name of the minor child, represented by the Appellant as her mother and Guardian, he also undertook to handover the Insurance Policies and consequently the parties are filed the Memorandum of Compromise as detailed below:-

(a) The respondent Mr.Mahaveer Chand Bora has executed and registered the Deed of Settlement dated 09.09.2021, registered as Document No.3510 of 2021 in the office of the Sub-Registrar, Arakkonam, settling Plot Nos.2 and 3, situate in the approved layout known as Navin Nagar, comprised in Survey No.116/1, New Survey No.116/1B and 116/1C, Patta Nos.1199 and 1200 in favour of his minor daughter, Charvi.

(b) The Respondent has paid a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) as one time Settlement towards the welfare of minor, Charvi, which has been deposited in the High Court Post Office for a period of 10 years in the name of the Minor Charvi.

(c) The Respondent has handed over the original life Insurance Certificate, bearing Policy No.708130638, standing in the

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name of Minor, Charvi having paid the Half-yearly Premium upto August 2021 with the last premium due and payable on 28.02.2033. The Respondent has also handed over the Medical Insurance Cards taken in the name of Varsha, the Appellant and in the name of the Minor daughter, Charvi having paid the Annual Premium upto August 2022.

(d) The Respondent hereby agrees that neither he nor his servants, agents or any person or persons claiming through or under or in trust for him would interfere, intermeddle deal with or encumber the aforesaid plots stated in Clause (a) above, in any manner whatsoever as it absolutely vests in the name of Minor Charvi.

(e) The Respondent further agrees that he will not cancel/revoke or otherwise change the name of the minor in the Life Insurance Policy stated in Policy 'C' above and that the amount assured under the same policy will be handed over to minor Charvi on the payment of the last premium on 28.02.2033 by the Life Insurance Corporation of India.

(f) It is agreed that the Appellant Varsha shall pay the balance premium due till 28.02.2033 in respect of the Life Insurance Policy No.708130638 without fail.

(g) The Appellant would also pay the premium for the Medical Insurance Card for the minor child and herself.

(h) The Appellant Varsha hereby undertakes not to discontinue/cancel and or encash the sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) deposited in the name of her minor daughter, Charvi, until its maturity in the year 2031 and shall use the amount for higher education, maintenance and welfare of her daughter.

(i) The Respondent and the Appellant hereby agree that the marriage solemnized between them according to Hindu Rites and customs on 07.02.2010 at Periyar Centre, M.R.RadhaMandram, No.50, EV.K.Sampath Road,

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Vepery, Chennai 600 007, be dissolved as the parties have been living separately for the past 7 years and it is not possible for them to live as husband and wife any longer.

(j) The parties hereby agree that they will not interfere the life of the other in any manner whatsoever and that the minor child Charvi shall be under the same custody and care of the Appellant, Varsha and the Appellant alone will take care of the minor's welfare and education without the interference of the Respondent.

(k) The Appellant shall make an endorsement in O.P.No.1101 of 2018, pending on the file of the VI Additional Principal Judge, Family Court, Chennai, filed for dissolving the marriage on the ground of cruelty averring that in the light of the marriage being dissolved by this Hon'ble Court by mutual consent, the said Original Petition No.1101 of 2018 may be closed.

(l) The Appellant hereby undertakes to withdraw O.S.No.202 of 2019 and Execution Petition No.90 of 2021 filed therein, pending on the file of the VI Additional Principal Judge, Family Court, Chennai, filed for Mandatory and Permanent Injunctions in the light of the settlement arrived at before this Hon'ble Court.

(m) The Respondent hereby agrees to handover the Certificates, PAN Card and any other documents pertaining to the Appellant, if it is traceable in his residence and if they are not traceable, the Appellant would be entitled to apply a fresh stating that the Certificates, PAN Cards etc. are lost and not traceable. However, the Respondent will hand over the Aadhaar and PAN Card of the Minor child Charvi. If there by any account standing in the name of the Appellant opened by the Respondent, the same shall be closed and the Respondent undertakes not to operate the said account or avail of any loan either in the name of Appellant or in the name of the minor daughter.

(n) The Parties hereby agree to abide by the terms of the aforesaid Compromise and

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not to do any act, deed or thing in derogation thereof.

3. The appellant and the respondent jointly pray that this Hon'ble Court may be pleased to record the aforesaid Compromise and Decree above Civil Miscellaneous Appeal in terms of the Compromise."

4. Taking note of the fact that the parties have arrived at a settlement and they have decided to dissolve the marriage, this Court, to meet the ends of justice thought it appropriate to grant relief to the parties.

5.In the light of the above, the appeal is disposed of in terms of the joint memo of compromise, dated 22.11.2021. The marriage solemnized between the appellant and the respondent on 07.02.2010 is dissolved. The joint memo of compromise shall form part of the judgment. No costs. Consequently, connected miscellaneous petition is closed.

(*)The Xerox Copy of the Memo of Compromise dated 22.11.2021 enclosed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

pvs
To

The VI Additional Principal Judge,
Family Court,
Chennai.

+1cc to M/s.T.Jayaraman, Advocate Sr.60384

C.M.A. No.1869 of 2020

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