

THE HON'BLE THE CHIEF JUSTICE HIMA KOHLI

AND

THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

I.A.No.1 of 2021 In/And F.C.A.No.388 of 2017

COMMON JUDGMENT: (Per the Hon'ble the Chief Justice Hima Kohli)

1. I.A.No.1 of 2021 has been moved jointly by the parties stating *inter alia* that during the pendency of the present appeal, they have arrived at a settlement. Terms and conditions of the settlement have been reduced in the Memorandum of Compromise dated 30.06.2021 wherein, the parties have agreed that they will part company amicably. They have also agreed that they shall seek divorce through mutual consent. The appellant/husband has agreed to release his share in a flat jointly owned by the parties, in favour of the respondent/wife after the Memorandum of Compromise is taken on record. The respondent/wife has agreed to handover the documents mentioned in para 2(b) of the compromise application. The remaining terms and conditions of the settlement have also been recorded in the agreement.

2. Both the parties are present.

3. Learned counsel for the parties jointly state on instructions that they shall take immediate steps to move an application for divorce by mutual consent before the concerned Family Court along with a request for waiving of the cooling period in view of the fact that they have been residing separately ever since the year 2009.

4. We have perused the present application. The same is supported by the affidavits of both the parties. The Memorandum of Compromise has been signed by both the parties and their respective counsel. In view of the statement made by learned counsel for the parties that their clients have arrived at the aforesaid settlement of their own free will and without any undue influence or coercion from any quarter, the said Memorandum of Compromise is taken on record. The parties shall remain bound by the terms and conditions thereof. In the event either party defaults/reneges from the terms and conditions of the settlement, the aggrieved party shall be entitled to seek restitution in every manner. This is besides contempt of court proceedings that may be invoked against the defaulting party.

5. I.A.No.1 of 2021 and the present appeal are disposed of in terms of the settlement arrived at between the parties along with the pending applications, if any, while granting liberty to the parties to approach the learned Family Court by moving an application for seeking divorce by mutual consent at the earliest.

HIMA KOHLI, CJ

B. VIJAYSEN REDDY, J

05.08.2021
ES/PLN