



O.P.No.594 of 2015
& A.No.5256 of 2015

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KRISHNAN RAMASAMY.J.,

When the matter is taken up for hearing today, the learned counsel for the petitioner and the learned counsel for the respondent submitted that the matter has been amicably settled between the parties by virtue of a Joint Memo of Compromise entered into between the parties on 28.01.2022.

2.The learned counsel for the petitioner submitted that the respondent/husband is in India, and he has signed the Joint Memo of Compromise on 28.01.2022. Further, the petitioner/wife is in U.S.A and she has signed the Joint Memo of Compromise on 05.06.2021 and the same was also notarised by the respective Notary Public of that Country.

3.Further, the learned counsel for the petitioner submitted that since the petitioner is residing outside India, her appearance may be dispensed with. In support of his contention, the learned counsel appearing for the petitioner referred to the judgment of Hon'ble Supreme Court reported in



1992 1 Supreme Court Cases 31 in the case ***Byram Pestonji Gariwala vs.***

Union Bank of India and Others. The relevant portion of the judgment is

reproduced hereunder:

“38.Considering the traditionally recognised role of counsel in the common law system, and the evil sought to be remedied by Parliament by the C.P.C (Amendment) Act, 1976, namely, attainment of certainty and expeditious disposal of cases by reducing the terms of compromise decree to comprehend even matters falling outside the subject matter of the suit, but relating to the parties, the legislature cannot, in the absence of express words to such effort, be presumed to have disallowed the parties to enter into a compromise by counsel in their cause or by their duly authorised agents. Any such presumption would be inconsistent with the legislative object of attaining quick reduction of arrears in court by elimination of uncertainties and enlargement of the scope of compromise.

39.To insist upon the party himself personally signing the agreement or compromise would offer cause undue delay, loss and inconvenience, especially in the case of non-resident persons. It has always been universally understood that a party can always act by his duly authorised representative. If a power-of-attorney holder can enter into an agreement or



compromise on behalf of his principal, so can counsel, possessed of the requisite authorisation by vakalatnama, act on behalf of his client. Not to recognise such capacity is not only to cause much inconvenience and loss to the parties personally, but also to delay the progress of proceedings in court. If the legislature had intended to make such a fundamental change, even at the risk of delay, inconvenience and needless expenditure, it would have expressly so stated.”

4. Since the petitioner is residing outside the jurisdiction of this Court, she has duly signed in the Joint Memo of Compromise and the same has been notarised by the Notary Public of the respective Country where the petitioner lives and also signed by the learned counsel for the petitioner and the learned counsel appearing for the petitioner also duly identified the signature of his client. In such circumstance, the learned counsel appearing for the petitioner submitted that this Court may not insist upon the petitioner's personal appearance before this Court to record the Joint Memo of Compromise as it would cause undue delay, since the the petitioner is residing aboard.



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5.The Hon'ble Supreme Court in the above referred case also observed that insisting upon the party himself personally signing the agreement or compromise would often cause undue delay, loss and inconvenience, especially in the case of non-resident persons. Hence, this Court taken on record the Joint Memo of Compromise of the parties concerned.

6. Upon hearing respective learned counsel appearing for the parties and on perusal of the Joint Memo of Compromise filed by the parties duly signed by the parties along with their learned counsel, it appears that the parties amicably settled the dispute.

7.Accordingly, the petition is disposed of in terms of the Memorandum of Compromise dated 28.01.2022 entered into between the parties. No costs. The Joint Memo of Compromise shall also form part of the order. Consequently, the connected Application is closed.

22.06.2022

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