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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CMA.Nos.1682 and 1688/2021

P.Prathapson ... Appellant in both C.M.As./Petitioner

-vs-

Mary Vimala ... Respondent in both C.M.As./Respondent

Civil Miscellaneous Appeals filed under Section 55 of the Indian Divorce Act, 1869 read with Section 19 of the Family Courts Act against the Common fair and decreetal order dated 14.02.2020 made in F.C.I.D.O.P.Nos.85/2018 and 104/2017 by the learned Judge, Family Court, Chengalpattu.

In both C.M.As.

For Appellant : Mr.R.Nandha Kumar

For Respondent : Mrs.Jayalakshmi
for Mr.M.Rajasekar

COMMON JUDGMENT

(Judgment of the Court was pronounced by T.RAJA, J.)

Both these Civil Miscellaneous Appeals have been directed against the Common fair and decreetal order dated 14.02.2020 made in F.C.I.D.O.P.Nos.85/2018 and 104/2017 by the learned Judge, Family Court, Chengalpattu.

2. These matters were listed to-day under the caption, ''for reporting settlement''.

3. When these matters were called, learned Counsel on either side by filing a Joint Memorandum of Compromise dated 29.01.2022, requested us to dispose of these appeals in terms of the said Joint Memo of Compromise and both the parties were also appeared through virtual mode.

4. In this regard, it is pertinent to extract the Joint Memorandum of Compromise here under:



''JOINT MEMORANDUM OF COMPROMISE

1. It is respectfully submitted that the Appellant herein have filed F.C.I.D.O.P.No.104/2017 on the file of the Family Court, Chengalpattu against the respondent, praying for a Decree of Divorce by dissolving the marriage solemnized on 21.04.2010. On the otherhand, the respondent has filed F.C.I.D.O.P.No.85/2018 on the file of the Family Court, Chengalpattu against the appellant for restitution of conjugal rights. By Common Order and Decreetal Order dt.14.02.2020 the Family Court has dismissed the F.C.I.D.O.P.No.104/2017 filed by the Appellant for divorce and allowed the F.C.I.D.O.P.No.85/2018 filed by the respondent for restitution of conjugal rights.

2. It is respectfully submitted that the Appellant herein have preferred the above two appeals before this Hon'ble Court in C.M.A.No.1688/2021 and C.M.A.No.1682/2021 against the Common Order and Decreetal Order dt.14.02.2020 made in F.C.I.D.O.P.No.104/2017 and F.C.I.D.O.P.No.85/2018 respectively on the file of the Court of the Family Judge, Chengalpattu.

3. It is respectfully submitted that the Appellant and the Respondent were living separately from the year 2011. Pending above Appeals, at the instance of elders and well wishers, the appellant and the respondent have agreed to settle their disputes and differences amicably between themselves without recourse to litigation and for that purpose they are willing to abandon their claims and have decided to dissolve the marriage solemnized between them on 21.04.2010 by a Decree of Divorce by mutual consent before this Hon'ble Court with the terms incorporated in this Memo of Compromise.

4. It is respectfully submitted that the Appellant herein has agreed to pay a sum of Rs.3,75,000/- (Three Lakhs Seventy Five Thousand Only) to the respondent by way of Demand Draft No.236289 dt.29.01.2022 drawn on Indian Bank, Maraimalainagar Branch towards permanent alimony. The appellant herein has also agreed to pay a sum of Rs.5,00,000/- (Five Lakhs Only) to his minor daughter P.Hannah Jouta by way of Demand Draft No.236290 dt.29.01.2022 drawn on Indian Bank, Maraimalarnagar Branch towards her future maintenance. On receipt of the above said amounts as full and final settlement, the respondent agreed for the decree of divorce through the Court of law as her marriage is irretrievably broken.

5. It is respectfully submitted that in respect



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of amount in DD to minor daughter, the respondent undertakes that she will deposit the said amount in 'Fixed Deposit' in the name of Minor daughter in any Nationalised Bank for a period of 3 years and would receive the interest accrued therein time to time.

6. It is respectfully submitted that the Appellant and Respondent jointly undertake that they will not further precipitate the issue by way of further litigations. Similarly, the Appellant also declare and state that he has no claim or whatsoever against the Respondent and her daughter. She further agreed that she will not claim any right over the property of the Appellant herein for herself or for her minor daughter. They also mutually declare and state that they will not interfere in one's life of another at any point of time in future.

7. It is respectfully submitted that the respondent and her minor daughter also has no claim of jewels or any other articles from the Appellant. As such both the Appellant and the Respondent shall have no claim against each other in respect of articles and any movable and immovable properties between them. In view of the receipt of the above permanent alimony for her and daughter, the Respondent hereby also agrees to withdraw/not press the Maintenance Petition filed by her and on behalf of daughter in M.C.No.23/2021 on the file of the Court of the Family Judge, Chengalpattu.

8. It is respectfully submitted that the Respondent will not make any claim or maintenance for herself or for her daughter in future from the Appellant and agrees for Divorce on mutual consent on the foregoing terms.

In view of the above submissions, it is therefore, prayed that this Hon'ble Court may be pleased to record the above Joint Memo of Compromise and set aside the Common Order and Decreetal Order dt.14.02.2020 made in F.C.I.D.O.P.No.104/2017 and F.C.I.D.O.P.No.85/2018 on the file of the Court of the Family Judge, Chengalpattu and to grant a Decree of Divorce by dissolving the marriage solemnized between the Appellant and Respondent on 21.04.2010 under the Indian Christian Marriage Act, 1872 and allow CMA.Nos.1682 and 1688/2021 and render justice.'

5. A perusal of the Joint Memo of Compromise would reveal that it was signed by both the parties along with their counsels and also accompanied by Xerox Copies of two Demand Drafts both drawn on the Indian Bank, one in favour of Mary Vimala, the respondent herein-wife for a sum of Rs.3,75,000/- (Rupees Three Lakhs Seventy Five Thousand Only) and another Demand Draft for a



sum of Rs.5,00,000/- (Rupees Five Lakhs Only) in favour of Hena Jovitta, minor daughter of the parties, towards full and final settlement.

6. Therefore, recording the Joint Memo of Compromise dated 29.01.2022, both these Civil Miscellaneous Appeals stand disposed of by granting mutual divorce to the appellant and the respondent by dissolving the marriage solemnized between them on 21.04.2010 as per the provisions of the Indian Christian Marriage Act, 1872 and the Common fair and decreetal order dated 14.02.2020 made in F.C.I.D.O.P.Nos.85/2018 and 104/2017 by the learned Judge, Family Court, Chengalpattu, refusing to grant divorce to the parties and also granting the relief of restitution of conjugal rights are hereby set aside.

It is needless to mention that the Joint Memorandum of Compromise dated 29.01.2022 shall form part of the decree. No costs.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

The Judge, Family Court, Chengalpattu.

+1cc to Mr.R.Nandhakumar, Advocate, S.R.No.5894

CMA.Nos.1682 and 1688/2021

RSI (CO)
SB(18/05/2022)