



O.P.No.446 of 2020

O.P.No.446 of 2020

P.VELMURUGAN, J.

This original petition has been filed by the father of the minors Varshini and Diya, to grant permanent custody of the minors and to appoint the petitioner as the guardian of the person of the minors. The respondent is the mother of the minor children.

2.When the matter is taken up for hearing, the learned counsel for the petitioner and the learned counsel for the respondent would state that the dispute between the parties has been amicably settled. The petitioner as well as the respondent are present along with their respective counsel and a Joint Compromise Memo dated 25.03.2022 signed by the parties as well as their counsel, is filed to that effect. The Joint Compromise Memo dated 25.03.2022 is extracted hereunder :

**"JOINT COMPROMISE MEMO FILED BY THE
PETITIONER AND THE RESPONDENT**

The Petitioner and the Respondent submits as follows :

1.The Petitioner is T.S.Sathish Kumar Son of (The late) T.S.Selvaraj, Hindu, aged about 40 years, residing at New No.4, Old No.10, Periyar Nagar, Nanganallur, Chennai-600 061.



WEB COPY



O.P.No.446 of 2020

2.The respondent is A.Janani Daughter of Arumugam, Hindu, aged 40 years, residing at New No.40, Old No.15/3, 11th Avenue, Ashok Nagar, Chennai – 600 083.

3.The petitioner and respondent states that the marriage between them was solemnized on 14.06.2009 at Shri Padmavathi Mahal, No.58, Arcot Road, Saligramam, Chennai – 600 093 as per Hindu Rites and Customs and that the marriage was registered at Sub-Registrar Office, Ashok Nagar in Serial Number of Marriage is 279 of 2009. They begot two daughters through their lawful wedlock. The first child Varshini was born on 15.07.2010 and the second child was born on 25.02.2012.

4.The petitioner and respondent submits that after marriage they started their matrimonial life at Bangalore. Thereafter misunderstandings cropped up between them and there were difference of opinion in each and every matter. They could not reconcile the issues due to the un-patchable differences. So, they are living separately since December, 2019.

5.The petitioner has filed O.P.No.446 of 2020 before the Hon'ble Court praying for a permanent custody of the minor daughters and to appoint him as the legal guardian of the minor daughters and the same is pending before the High Court at Madras and simultaneously he filed another two applications in A.Nos.2447 & 2448 of 2020 to grant



WEB COPY



O.P.No.446 of 2020

interim custody of the minor daughters Ms.Varshini & Diya and to grant an interim visiting right on every Saturday evening to Sunday evening to visit the minor daughters. The Hon'ble High Court of Madras has passed an interim order dated 6.11.2020 permitting the petitioner to visit the children at the residence of the mother/respondent on every Sunday 10 a.m. to 3 p.m. On 19th day of April 2021, the petitioner requested to modified the order dated 6.11.2020 to permit him to see the children at the residence of the respondent on every Saturday from 10 am to 1 pm instead of every Sunday from 10 am to 3 pm and the same was allowed by this Hon'ble Court. The 1st petitioner has also filed a detailed counter in the main O.P the matter has been referred before Master for recording evidence.

6.The petitioner and respondent submits that in the meantime, they have tried for an amicable settlement. The petitioner and respondent discussed all the issues and arrived at a consensual decision that the differences between them are un-patchable and their marriage is irretrievably broken. After prolonged discussions between the petitioner and their counsel, the petitioner mutually agreed to part ways by filing a petition for divorce by mutual consent before the Family Court, Chennai. They reduced the terms into a Joint Compromise Memo dated 13.01.2022 with the following conditions :



WEB COPY



O.P.No.446 of 2020

- a) The respondent shall be the sole guardian and custodian of the minor daughters Varshini & Diya aged about 10 years and 8 years. The petitioner consents for the Minor daughters to be under the custody and guardianship of the respondent A.Janani.
- b) The petitioner shall visit the minor daughters Varshini & Diya on alternate Sundays and on the Birthday of the Daughters at Vijaya Forum Mall from 11 am to 1 pm. The respondent shall bring the children to the Vijaya Forum Mall on the time agreed.
- c) The respondent shall have the absolute rights over the custody of minor daughters and she undertakes to take care of entire expenses for the minor daughters. She further declares that she will not claim any maintenance from the petitioner for the minor daughters for the past, present and future.
- d) The respondent agreed to Co-operate to get NOC formalities to proceed with release deed from SBI Bank. The respondent declares that she will execute a Release Deed To And in favour of the petitioner relinquish her equal right in house, which was purchased by the petitioner in the



O.P.No.446 of 2020

names of both the petitioner and respondent. The property is situated at Daiwik Sparsh, Valepura, Varthur, Bangalore 560 087.

e) The petitioner has agreed to handover the following documents to the respondent :

i. Passports of the respondent and the minor daughters.

ii. The petitioner has agreed to co-operate to remove his name from the Joint Account.

iii. All the cloths, household articles and belongings of the respondent and the minor daughters left in the custody of the petitioner in their house at Bangalore.

f) Both the petitioner and respondent agreed to file mutual consent divorce petition before the Hon'ble Family Court at Chennai and settle all their differences amicably.

g) The petitioner and respondent agree and declare that the above conditions are binding them and that they will carry on their part of responsibilities.

7.In furtherance of the Memorandum of Understanding, the petitioner handed over the Transfer



WEB COPY



O.P.No.446 of 2020

certificate of minor Daughters Varshini and Diya which are obtained from Kendra Vidhyalaya to the respondent and the petitioner also returned the money due to the respondent's father for cancellation of the air tickets booked for travel to USA during May 2020 which was refunded by AIR INDIA (Rs.1,08,914) to the account of the respondent.

8.In furtherance of the Memorandum of Understanding, the petitioner handed over the passports of the respondent and the minor daughters Varshini and Diya to the custody of the respondent and that he has removed his name from the Joint account of the respondent in SBI, Ashok Nagar Branch.

9.In furtherance of the understanding the respondent had executed a released deed for the property situated Daiwik Sparsh, Valepura, Varthur, Bangalore 560 087 To And in favour of the petitioner by a registered Release Deed executed in the Sub-Registrar Office, Hoskote, Bangaluru on 09.02.2022 in Document No.HSK-1-13805-2021-22. The respondent has also executed No Objection Certificate for removing her name from the loan account pertaining to the above property and from the mortgage of Title Deed of the said loan.

10.The belongings of the respondent and the minor daughters were handed over by the petitioner and the respondent has declared that all the gold jewels presented



WEB COPY



O.P.No.446 of 2020

by the petitioner to the respondent at the time of marriage and thereafter during their matrimonial life will be used for the purpose of the minor daughters. The respondent also declare that she will inform the petitioner in advance if the respondent and the minor daughters are travelling outside the country. If the respondent for any reason the visitation is not taking place in a particular week, visitation shall take place next week either Saturday or Sunday.

11.The petitioner and respondent submit that they have no past, present or future claim of whatsoever against any of them including maintenance and permanent alimony.

12.The petitioner and respondent declare that they have exchanged their belongings and that they have no claim against each other in respect of movable or immovable property in any manner whatsoever.

13.The petitioner and respondent undertake to be refrained from the life of each other and that they shall not interfere with the peaceful life of other in future. They further undertake not to file any other case against each other or their family members in future.

14.The petitioner and respondent declares that the above terms and conditions are binding on them and that they shall carry on their part of responsibilities till the end of execution.



WEB COPY



O.P.No.446 of 2020

15.Both parties undertakes to follow the terms and conditions mentioned in clause 6-10 in letter and spirit.

Therefore the petitioner and the respondent pray that this Hon'ble Court may be pleased to grant a decree of declaration in terms of the Joint Compromise Memo and treating the Joint Compromise Memo as part of the decree in G.W.O.P.No.446 o 2020 and pass such further or other orders as this Hon'ble Court may deem fit and proper and thus render justice.

Date at Chennai on this the 25th day of March 2022."

3. In the light of the above, this Original Petition is disposed of in terms of the Joint Compromise Memo dated 25.03.2022. The joint memo of compromise shall form part of the order.

26.04.2022

ms



WEB COPY



O.P.No.446 of 2020

P.VELMURUGAN, J.

ms

O.P.No.446 of 2020

26.04.2022