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CRP.PD.No.4789 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.4789 of 2017
and CMP.No.22517 of 2017

Arul Ganesh

... Petitioner

Vs.

A.Aarthi (alias) Rukmani

... Respondent

PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India praying to set aside the order dated 16.11.2017 of the learned VI Additional Family Court Judge at Chennai in IA.No.959 of 2016 in OP.No.3178 of 2012 insofar as directing the petitioner to return the sridhana articles i.e., gold and silver articles alone as listed in Schedule A and B to the respondent on or before 18.12.2017 and to dismiss IA.No.959 of 2016.

For Petitioner : M/s.Giridhar and Sai
For Respondent : Mr.M.Rajasekar

ORDER

This civil revision petition has been filed praying to set aside the order dated 16.11.2017 of the learned VI Additional Family Court Judge at Chennai in IA.No.959 of 2016 in OP.No.3178 of 2012 insofar as directing the petitioner to return the sridhana articles i.e., gold and silver articles alone as listed in Schedule



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A and B to the respondent on or before 18.12.2017 and to dismiss IA.No.959 of

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2. On 16.02.2021, when the petition was taken up for hearing, both the counsel represented that there was possibility for amicable settlement of the dispute between the parties. As such, the matter was referred to the Tamilnadu Mediation and Conciliation Centre, Chennai and after completion of the mediation process, the matter has been listed today along with the mediation report dated 20.04.2022, wherein it is informed that the parties have settled the dispute between them by memorandum of understanding dated 19.04.2022, which is extracted hereunder:

1. The party of the first part and the party of the second part got married on 27.11.2009 at Shri VenkateswaraKalyanaMandapam, Madambakkam, Tambaram, Chennai being arranged by elders. Various misunderstandings and differences arose between them, and the parties have been living separately since June 2010. The marriage between them was consummated and no issues are born out of his lawful wedlock;

2. First party filed a petition seeking divorce in HMOP.No.3178 of 2012 and the second party filed a petition seeking restitution of conjugal rights in HMOP.No.761 of 2013. Both the above cases are filed and pending before the Hon'ble VI Additional Family Court, Chennai



3. *In HMOP No.761 of 2013, second party filed a petition in IA.No.959 of 2016 seeking the first party to return the stridhana articles i.e. Gold & Silver jewels, dowry cash amount etc., and by order dated 16.11.2017 the Hon'ble VI Additional Family Court, Chennai was pleased to allow the same and whereas first party filed CRP.PD.No.4789 of 2017 in the Hon'ble High Court challenging the said order, and the Hon'ble High Court by order dated 16.02.2021 was pleased to refer the matter to the High Court Mediation Centre;*

4. *The parties agreed that Mr.B.S.Jothiraman and Mrs.AdhilakshmiLogamurthy would cat as their mediator.*

5. *Whereas pursuant to a mediation session held at the High Court Mediation Centre on 04.04.2022 during which the Mediator patiently and proficiently enabled the parties and their respective family members to understand the benefits of settling the disputes between them and moving on in their lives rather than entangling their lives and those of their family members in the web of adversarial litigation and the parties have with a view to ending the dispute so that each of them and their respective family members could put the past behind them and move on in their respective lives and careers;*

6. *Whereas the party of the first part and the party of the second part and their respective family members have also concurred and promised to cooperate with the provisions of the present memorandum of understanding (MOU) and implementation thereof*



7. Whereas the party of the first part and the party of the second part have decided to get their marriage dissolved by a decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955 before the Hon'ble Family Court, Chennai

Now this memorandum of understanding witnesseth as follows:

- 1. The parties and their respective family members have agreed to settle all disputes amicably, including pending litigation between them. The parties agree to file a petition for divorce by mutual consent to dissolve the marriage that took place on 27.11.2009 before the Hon'ble Family Court at Chennai;*
- 2. Both the parties mutually agree to withdraw all the pending litigations and legal proceedings filed by them, giving a quietus to the issue before the final hearing of the petition for divorce by mutual consent.*
- 3. First party shall pay a total sum of Rs.10,00,000/- (Rupees Ten Lakhs only) to second party towards full and final settlement of all her claims of whatsoever in nature including the past, present and future claims in two instalments, i.e.,*
 - a) One upon the filing of the petition for divorce by mutual consent and*
 - b) Two, at the time of the final hearing wherein the Family Court grants divorce to the parties as contemplated herein in the manner detailed hereafter;*
- 4. Both the parties herein out shall, subject to the above provisions, withdraw all their respective allegations made against*



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each other. Both the parties and their respective family members undertake not to initiate any fresh or further proceedings against each other whatsoever and both the parties affirm that all their respective grievances or claims whatsoever including interim maintenance arrears against each other, if any have been settled completely by the provisions hereof;

5. Both the parties have agreed to exchange their valuable personal belongings and articles before the final hearing of the petition for divorce by mutual consent

6. The first party has provided a list of stridhana articles (annexed with this MOU) belonging to the second party during the mediation held on 04.04.2022 and the second party confirmed the list of articles along with her father Mr.V.Arumugam. The first party agrees to return the stridhana articles belonging to the second party on a date on which the second party agrees to receive the same.

7. The sequence of steps to implement the present settlement shall be as follows:

a) First and second party shall upon the signing of the present MOU, file a petition for divorce by mutual consent in the Family Court at Chennai along with a petition for dispensing with the period of six months stipulated for grant of such divorce;

b) On the date of such filing, first party shall handover a demand draft drawn on a nationalized bank in favour of second party for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the second party;



c) *Both parties shall without any delay, preferably on 22.04.2022 or any other earlier date mutually convenient, take steps to withdraw all the three proceedings viz.,*

(i) HMOP.No.3178 of 2012 – Hon'ble VI Additional Family Court, Chennai

(ii) HMOP.No.761 of 2013 – Hon'ble VI Additional Family Court, Chennai

(iii) CRP.PD.No.4789 of 2017 – Hon'ble High Court, Madras

d) Upon payment of the said sum, steps shall be taken by both parties and their respective counsel to move to the Family Court to waive the period of six months and grant divorce by mutual consent to the parties;

e) On the date of the final hearing in the petition for divorce by mutual consent first party shall handover another demand draft for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) in favour of the second party drawn on a nationalized bank to the second party before the learned Judge of the Family Court at the time of tendering evidence in the second motion hearing.

8. Once filed neither party shall withdraw or otherwise impose any other condition in the petition for divorce by mutual consent. If the second party withdraws her consent, she shall return the entire sum received by her to the first party. If both parties withdraw their consent, they shall be free to seek restoration of the cases withdrawn by them or act afresh on



their respective causes of action;

9. *The parties and their respective family members undertake to do all acts and deeds to implement the provisions hereof in letter and spirit and abstain from any act or deed that may obstruct or in any way adversely affect the provisions hereof, and consent to the MOU being incorporated in the order of the court.*

10. *Both the parties herein out of their herein further agree to have individual life of their own choice and both the parties further confirm that either party will interfere in the life of the other party in any manner, whatsoever*

11. *Both the parties herein agree that they will not in any way misuse the individual photograph / joint photograph or any copies of personal documents of each other anywhere including the social media*

12. *Both the parties herein agree that there will be no future litigations, either in civil or criminal nature against each other or their respective family members*

13. *Both the parties have agreed not to create any problem to each other now or in future*

14. *This memorandum of understanding executed by the party of the first part and the party of the second part out their free will and no threat or force, or undue influence is exercised by either side.*



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3. Recording the above memorandum of understanding dated 19.04.2022, this civil revision petition is disposed of. The terms of the above memorandum of understanding shall form part and parcel of this order, Consequently, connected miscellaneous petition is closed. No order as to costs.

10.06.2022

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

VI Additional Family Court Judge
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