

THE HON'BLE JUSTICE G. SRI DEVI

AND

THE HON'BLE SMT. JUSTICE M.G. PRIYADARSINI

F.C.A.Nos.38 AND 221 OF 2010

COMMON JUDGMENT: (*per Justice G. Sri Devi*)

1) Parties in person are present before this Court today. They have been duly identified by their respective counsels. However, for the purpose of their identification, parties have also submitted their passport size photographs and Aadhaar cards, copies of which have been duly attested by their respective counsel.

2) I.A.No.3 of 2022 has been filed by the respective parties supported by a joint affidavit inter alia, stating therein that the petitioner/appellant/husband as per the aforesaid appeal bearing F.C.A.No.221 of 2010 questioning the Order dated 29.10.2009 passed in F.C.O.P.No.779 of 2005 by the Judge, Family Court, City Civil Court, Hyderabad, whereby the learned trial Court has dismissed the application filed by the appellant/petitioner under Section 13(1)(ia) and (ib) of Hindu

Marriage Act and allowing the counter claim filed by the wife for restitution of conjugal rights in the said O.P.

3) Aggrieved by the said order of the trial Court, the appellant has filed two separate appeals bearing F.C.A.Nos.38 of 2010 and 221 of 2010 which are pending before this Court for disposal.

4) It has been further submitted by the both parties that the respondent has also filed several other civil and criminal case against the appellant herein which is numbered as C.C.No.874 of 2007 (Crime No.34 of 2005) on the file of learned XIII A.C.M.M., Hyderabad under Sections 498-A, 323 and 506 IPC and the same is numbered as C.C.No.49 of 2014 and pending before the XV A.C.M.M., Hyderabad. The respondent also filed D.V.C.No.165 of 2012 pending before the III Metropolitan Magistrate at Nampally, M.C.No.94 of 2005 pending before J.H.B.B.S. Court for maintenance, O.P.No.1395 of 2010 for return of ornaments, which is also pending on the file of Judge, Family Court, Hyderabad. Respondent also filed another O.P.No.1204 of 2010 for educational expenses, maintenance and for marriage

expenses of their daughter. However, the said O.P. was disposed by the Family Court, directing the appellant to pay Rs.One lakh per annum as educational expenses of their daughter from the date of petition and to pay Rs.10 lakhs as marriage expenses.

5) However, during pendency of the present appeals as well as the aforesaid cases, both the parties have mutually agreed to put an end to all the disputes and litigations pending between them to lead a peaceful life and in order to quash out all the issues, have entered into a mutual understanding and compromises, which is reduced into writing by way of a Memorandum of Compromise dated 18-10-2020, a copy of which is filed before this Court and a true copy has been produced before this Court today.

6) According to the matrimonial compromise, both the parties have agreed to dissolve their matrimonial tie on mutual consent.

7) As per the terms of the matrimonial understanding dated 18.10.2020, the appellant has transferred all the landed properties in the name of the respondent/wife and their

daughter and accordingly, he has fulfilled all his commitments by executing two separate Gift Deeds in the name of the wife as well as their daughter. The copies of the Gift Deeds executed by the husband in favour of the wife as well as the daughter have already been filed along with I.A.No.1 of 2022.

8) It is further submitted that according to the terms of matrimonial compromise, the respondent/wife has withdrawn the criminal case filed against the husband i.e., C.C.No.49 of 2014 pending on the file of XV A.C.M.M., Hyderabad and the same was closed on 02-03-2021. Accordingly, M.C.No.94 of 2005 filed by the wife for maintenance was also closed on 02-03-2021. The D.V.C. No.165 of 2012 was also closed by the III M.M. Court, Hyderabad on 03.03.2021.

9) Both the parties have taken steps to withdraw the other cases which are pending before different Courts filed by either of the parties and have given undertaking to take steps if any cases are pending before any Court and to withdraw the same by filing the certified copy of the Order passed by this Court. It has also been submitted by the respective parties that both

parties and their daughter shall not claim whatsoever in any nature against each other and both parties shall cooperate with each other to file appropriate applications before the respective Courts to withdraw the cases filed by either of the parties. Accordingly, a joint prayer has been made seeking permission to alter the Section of law to convert the decree and order passed under Section 13((1)(ia) and (ib) into Section 13B of The Hindu Marriage Act and to pass a decree of mutual consent by dissolving the marriage solemnized between the parties on 23-08-1997, in view of the compromise arrived at between the parties in terms of the Memorandum of Compromise dated 18-10-2020.

10) True copy of the Memorandum of Compromise arrived at between the parties dated 18-10-2020 is filed along with the compromise memo filed by both the parties in view of the compromise arrived at between the parties.

11) The parties agreed to alter the Section of law from 13(1)(ia) and (ib) to Section 13B of Hindu Marriage Act.

12) Accordingly, in view of the compromise and mutual understanding between the parties, the Order and Decree

passed by the learned Family Court in F.C.O.P.No.779 of 2005 is hereby set aside. The marriage between the parties solemnized on 23.08.1997 is hereby dissolved by way of mutual consent. Both appeals i.e., F.C.A. Nos.38 and 221 of 2010 are disposed of accordingly.

13) While drawing the decree, the Registry is directed to draft the decree in terms of the compromise and a copy of the Memorandum of Compromise be appended to the decree. The Memorandum of Compromise arrived at between the parties shall form as part of the Decree.

14) Miscellaneous petitions, if any, pending in this appeal shall stand closed.

JUSTICE G. SRI DEVI

JUSTICE M.G. PRIYADARSINI

18.08.2022
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