

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SRI JUSTICE NAGESH BHEEMAKAPA

FAMILY COURT APPEAL No.265 of 2018
AND
I.A.Nos.1 AND 2 OF 2022
IN/AND
FAMILY COURT APPEAL No.268 OF 2018

COMMON JUDGMENT: (Per Hon'ble Dr. Justice Shameem Akther)

The parties to the above two Family Court Appeals are husband and wife respectively.

2. As against allowing the counter claim for restitution of conjugal rights and as against dismissal of O.P.No.343 of 2015 seeking divorce by the Family Court, vide order, dated 05.02.2018, the husband filed the present two appeals.

3. I.A.No.1 of 2022 in F.C.A.No.268 of 2018 is filed by the appellant/husband, requesting this Court to permit him to convert the subject O.P. into an O.P. for Mutual Divorce under Section 13B of the Act and dispose of the appeal by granting divorce by mutual consent, dissolving the marriage performed between the parties on 02.07.1994, in the interest of justice.

4. I.A.No.2 of 2022 in F.C.A.No.268 of 2018 is filed by the appellant/husband, requesting this Court to record mutual consent and dispose of the appeal by granting divorce by mutual consent, in the interest of justice. A copy of Memorandum of compromise, dated 11.11.2022, has been filed along with the said application.

5. Heard the submissions of Sri J.Ashvini Kumar, learned counsel for the appellant/husband, Sri P.Balaji Varma, learned counsel for the respondent/wife, and perused the record.

6. Sri Alluri Kodanda Harinatha Sri Rama Raju, the appellant/husband and Smt.Alluri Sridevi, the respondent/wife, are present in-person before this Court today. They have been identified by their respective counsel. Both the parties have stated before this Court that they have amicably settled the dispute outside the Court and they intend to dissolve the marriage performed between them, by mutual consent and that the settlement reached by them is voluntary. Both the parties are at *consensus ad idem* that they would like to take divorce against each other on mutual consent. Therefore, this Court is of the opinion that the settlement reached in between the parties is

voluntary, without any coercion. The parties have also entered into a Memorandum of compromise, dated 11.11.2022, to that effect, which is filed along with I.A.No.2 of 2022. Both the learned counsel have also made similar submissions.

7. Since the parties wish to part their ways and divorce each other by mutual consent, I.A.Nos.1 and 2 of 2022 in F.C.A.No.268 of 2018 are allowed as prayed for, granting

i) permission to convert the main O.P for Mutual Divorce, under Section 13B of the Hindu Marriage Act, 1955 and

ii) recording the memorandum of compromise entered into between the parties.

8. Considering the fact that the parties have agreed for divorce by mutual consent by entering into a Memorandum of compromise, the statutory period of six(6) months (cooling period) for grant of divorce by mutual consent is hereby dispensed with.

9. In the result, F.C.A.Nos.265 and 268 of 2019 are allowed and the impugned order and decree, dated 05.02.2018, passed in O.P.No.343 of 2015 by the Principal Judge, Family Court,

Hyderabad, is set aside. Consequently, the subject O.P.No.343 of 2015 stands allowed and the marriage performed between the appellant/husband and the respondent/wife on 02.07.1994 stands dissolved by granting a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act. In view of the dissolution of marriage between the parties, the order passed in O.P.No.343 of 2015 granting restitution of conjugal rights is set aside.

Miscellaneous Petitions, if any, pending in these appeals, shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

NAGESH BHEEMAPAKA, J

Date: 28.12.2022
ssp