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C.M.S.A.Nos.78 & 79 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.S.A.Nos.78 and 79 of 2022

and

CMP.No.18617 of 2022

Senthil Kumar

...Appellant in both C.M.S.A.Nos.

Vs.

Kiruthika

...Respondent in both C.M.S.A.Nos.

Common Prayer: Civil Miscellaneous Second Appeal is filed under Section 100 of CPC r/w. Section 28(1) of Hindu Marriage Act,1955 praying to set aside the Common Decree and Judgment dated 21.04.2022 in C.M.A.Nos. 52 and 51 of 2021 passed by the Additional District (Fast Track) Court, Mettur, Salem District and the Common Decree and Judgment dated 19.04.2021 passed in H.M.O.P.Nos.68 and 161 of 2018 passed by the Sub-Ordinate Judge of Mettur, Salem District.



C.M.S.A.Nos.78 & 17 of 2022

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For Appellant in both CMSA.Nos. : Mr.J.Ranjith Kumar
and Mr.V.P.Arivan

(change of vakalat on 23.06.2023 in SR.Nos.19593 and 19592)

For Respondent in both CMSA.Nos.: Mr.N.Manikandajayakumar

JUDGMENT

The appellant filed H.M.O.P.No.161 of 2018 on the file of the Subordinate Judge, Mettur, Salem for the divorce and the same was dismissed on 19.04.2021. The appellant preferred the appeal in C.M.A.No. 51 of 2021 against the order passed in H.M.O.P.No.161 of 2018 and the same was also dismissed. The appellant therefore has filed the above Civil Miscellaneous Second Appeal in C.M.S.A.No.79 of 2022 before this Court.

2. The respondent filed H.M.O.P.No. 68 of 2018 for Restitution of conjugal right and it was allowed on 19.04.2021. The appellant therefore filed C.M.A.No.52 of 2021 and the same was dismissed. Against the Judgment in C.M.A.No.52 of 2021, the appellant has filed the above Civil Miscellaneous Second Appeal in C.M.S.A.No.78 of



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3. It is submitted by both the learned counsels that the appellant has entered into Joint Compromise Memo with the respondent and therefore these two Civil Miscellaneous Second Appeals may be disposed of in-terms of Joint Compromise Memo.

4. In the light of the submissions made by both the learned counsels, C.M.S.A.Nos.78 and 79 of 2022 are disposed of in-terms of Joint Compromise Memo which terms read as follows:

1. The Appellant and the Respondent are legally wedded husband and wife and their marriage was solemnized on 06.06.2016 at Bhuvaneswari Thirumana Mandapam, Jalakandapuram, Mettur, Salem, in accordance with the Hindu Rites and Customs. The Appellant and the Respondent do not have children out of the wedlock.



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2. The Appellant filed Divorce Petition in H.M.O.P.No.161 of 2018 on the file of the Sub-Ordinate Judge, Mettur, Salem, and it was dismissed on 19.04.2021. The Appellant preferred Appeal against the dismissal before the Additional District (Fast Track) Court, Mettur, in C.M.A.No.51 of 2021 and the Hon'ble Court dismissed the Civil Miscellaneous Appeal. The Appellant filed this Civil Miscellaneous Second Appeal before this Hon'ble Court to set aside the judgment and Decree of the court below.
3. The Respondent filed Restitution Petition in H.M.O.P.No.68 of 2018 on the file of the Sub-Ordinate Judge, Mettur, Salem, and it was allowed on 19.04.2021. The Appellant preferred Appeal against the said judgment before the Additional District (Fast Track) Court, Mettur, in C.M.A.No.52 of 2021 and the Hon'ble Court dismissed the Civil Miscellaneous Appeal. The Appellant filed this Civil Miscellaneous Second Appeal before this Hon'ble Court to set aside the judgment and Decree of the court below.
4. Now the appellant and respondent desirous of ending their matrimonial relationship owing to incompatibility and irreconcilable differences that have arisen between them. They have been living separately since October, 2016 till date.



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5. The Appellant and respondent out of their own free will without any coercion, duress and /or threat, have agreed to dissolve their marriage by way of this joint compromise and both of them executed MoU dated 21.06.2023.
6. The Respondent agreed to receive a sum of Rs.36,50,000/- (Rupees Thirty Six Lakhs Fifty Thousand only) from the appellant as a permanent alimony in full and final settlement of all her present and future claims.
7. The Appellant handed over Demand Draft No.064843, Dated 18.04.2023 drawn on Axis Bank to the Respondent for a sum of Rs. **Rs.6,50,000/- (Rupees Six Lakhs Fifty Thousand Only)** while executing the MoU dated 21.06.2023. The Respondent received the same and endorsed “NOT PRESSED” in the DVOP No. 2 of 2020 and M.C. No. 13 of 2019 pending on the file of the Hon'ble Judicial Magistrate-II, Mettur, Salem filed against the Appellant.
8. The Appellant handed over the remaining permanent alimony by way of Demand Draft No. 064842, Dated 18.04.2023 drawn on Axis Bank for a sum of **Rs.30,00,000/- (Rupees Thirty Lakhs Only)** to the Respondent on the day of hearing the C.M.S.A.No. 78 of 2022 and C.M.S.A.No 79 of 2022 pending before



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the file of the Hon'ble Madras High Court and the Respondent shall immediately withdraw the DVOP No.2 of 2020 and M.C.No. 13 of 2019 pending on the file of the Judicial Magistrate-II, Mettur, Salem.

9. The Respondent agrees that, other than this permanent alimony of Rs.36,50,000/- (Rupees Thirty Six Lakhs Fifty Thousand only), she shall not claim any amount as alimony or maintain in any manner or for any purpose from the appellant at any point of time.
10. At the time of signing MoU, available articles also exchanged by the appellant and respondent. No other articles, jewellery or cash of the appellant is available with the respondent. No other articles, jewellery or cash of the respondent is available with the petitioner.
11. The appellant and respondent agree and accept for dissolution of Marriage solemnized on 06.06.2016 at Bhuvaneswari Thirumana Mandapam, Jalakandapuram, Mettur, Salem, in accordance with the Hindu Rights & Customs and it is agreed and accepted that the above said Marriage between appellant and respondent would stand dissolved.



12.The appellant and respondent agree that they will not proceed with any litigation in respect of their matrimonial dispute present or future and waive all their claims against each other. The appellant and respondent have no claim against each other whatsoever.

13.The appellant and respondent undertake not to interfere, interrupt and/or indulge in the lives of the other PARTY and/or their family members or relatives, in any form or manner.

14.The appellant and respondent entered into joint compromise on their own free will and have not been forced or coerced to executing the same.

5. In view of the above terms of the Joint Compromise Memo, the marriage between the appellant and the respondent solemnized on 06.06.2016 is dissolved. The Joint Memo of Compromise shall form part and parcel of this Judgment and Decree.

6. Accordingly, both Civil Miscellaneous Second Appeals are disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.



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7. It is submitted by the learned counsel for the appellant, Mr.J.Ranjith Kumar, that he has come by way of change of vakalat, filed in SR.No.19593 in C.M.S.A.No.78 of 2022 and SR.No.19592 in C.M.S.A.No.79 of 2022

23.06.2023

dsn

Index:Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No



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To

1.The Additional District Judge,
Additional District (Fast Track) Court,
Mettur, Salem District.

2.The Sub-Ordinate Judge,
Mettur, Salem District.

Copy to
The Section Officer,
V.R. Section,
High Court, Madras.



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N.MALA.J.,

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