



C.M.S.A(MD)Nos.29 & 30 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2023

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.S.A(MD)Nos.29 & 30 of 2014

and

M.P(MD)No.1 of 2014

C.M.S.A(MD)No.29 of 2014:

T.S.Kabilan

... Appellant/Respondent/
Respondent

Vs.

Swarnalatha

... Respondent/ Appellant/
Petitioner

Prayer: Civil Miscellaneous Second Appeal is filed under Section 28 of Hindu Marriage Act and Order 43 Rule 1 r/w Section 100 of Code of Civil Procedure, to set aside the judgment and decree dated 08.03.2014 passed in H.M.C.M.A.No.42 of 2008 on the file of the I Additional District Court and Sessions Court, Tirunelveli reversing the fair and decreetal order, dated 10.07.2008 passed in H.M.O.P.No.53 of 2000 on the file of the Principal Sub-Court, Tenkasi.

C.M.S.A(MD)No.30 of 2014:

T.S.Kabilan

... Appellant/Respondent/
Petitioner

Vs.

Swarnalatha

... Respondent/ Appellant/
Respondent



C.M.S.A(MD)Nos.29 & 30 of 2014

Prayer: Civil Miscellaneous Second Appeal is filed under Section 28 of Hindu Marriage Act and Order 43 Rule 1 r/w Section 100 of Code of Civil Procedure, to set aside the judgment and decree dated 08.03.2014 passed in H.M.C.M.A.No.43 of 2008 on the file of the I Additional District Court and Sessions Court, Tirunelveli reversing the fair and decreetal order, dated 10.07.2008 passed in H.M.O.P.No.94 of 2000 on the file of the Principal Sub-Court, Tenkasi.

For Appellant : Mr.D.Nallathambi
(In both cases)

For Respondent : Mr.S.Ramasamy
(In both cases)

COMMON JUDGEMENT

The husband has filed H.M.O.P.No.94 of 2000 on the file of Principal Sub Court, Tenkasi seeking divorce. The wife had filed H.M.O.P.No.53 of 2000 before the same Court seeking restitution of conjugal rights. Both the matters were heard together and a common order was passed granting divorce in favour of the husband and dismissing the restitution petition filed by the wife. Challenging the same, the wife had filed H.M.C.M.A.Nos.42 and 43 of 2008 before Additional District and Sessions Court, Tirunelveli. The learned District Judge was pleased to allow both the appeals filed by the wife, thereby



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Challenging the said orders, the husband has filed the present civil miscellaneous second appeals.

2. Pending appeal, at the intervention of the elders, the parties have arrived at a settlement and they have filed a Joint Compromise Memo. As per the said Joint Compromise Memo, the wife has agreed to allow both the appeals, thereby granting divorce and to dismiss the restitution petition. The wife had received a sum of Rs.15,00,000/- (Rupees Fifteen Lakh only) as permanent alimony and another sum of Rs.5,00,000/- (Rupees Five Lakh only) has been paid to the daughter, named Nandhini. In the said Compromise Memo, the wife and the daughter have agreed to withdraw D.V.C.No.1 of 2018 pending before Judicial Magistrate Court, Tenkasi. The husband, wife and the daughter have appeared in person and this Court has verified from them about the compromise and they have agreed that they have entered into a compromise as per the terms of compromise.

3. In view of the above said Joint Compromise Memo, this Court passes the following order:

(i) C.M.S.A.Nos.29 and 30 of 2014 stand allowed.

(ii) The marriage between the appellant and the respondent which took place on 08.06.1990 stands dissolved.



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(iii) The respondent and her daughter Nandhini will not have any further claim as against their husband/father.

(iv) The respondent and her daughter Nandhini have agreed to withdraw D.V.C.No.1 of 2018 pending on the file of Judicial Magistrate Court, Tenkasi.

(v) The Joint Compromise Memo has been signed by the husband, wife and the daughter and also by their respective counsels. The said Compromise Memo shall form part of the decree.

4. Both the Civil Miscellaneous Second Appeals are disposed of in terms of the Joint Compromise Memo. No costs.

20.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The I Additional District Court and
Sessions Court,
Tirunelveli.
- 2.The Principal Sub-Court,
Tenkasi.
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Judgment made in
C.M.S.A(MD)Nos.29 & 30 of 2014

20.04.2023