



DATED: 17.10.2023

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

C.M.A(MD)Nos.102 & 103 of 2019
and
C.M.P(MD)No.1186 of 2019

Mrs.Rathinaveni ...Appellant
in both appeals
.vs.

Ajaikumar ...Respondent
in both appeals

PRAYER in both appeals: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 against the fair and decretal order dated 22.02.2018 made in H.M.O.P.Nos.73 & 79 of 2017 passed by the Family Court, Tirunelveli, Tirunelveli District.

For Appellant :Mr.S.Palanivelayutham
For Respondent :Mr.G.Aravinthan

JUDGMENT

[Judgment of the Court was made by **RMT.TEEKAA RAMAN.,J.**]

The parties are referred to as per the litigative status in C.M.A(MD)No.102 of 2019.



C.M.A(MD)Nos.102 & 103 of 2019

2. The marriage between Rathinaveni / appellant and Ajaikumar / respondent was solemnized on 14.11.2013. The appellant / wife filed H.M.O.P.No.73 of 2016 before the Family Court, Tirunelveli for dissolution of marriage on the ground of cruelty. While, the respondent / husband filed H.M.O.P.No.79 of 2017 before the Family Court, Tirunelveli for restitution of conjugal rights. After trial, the Family Court Judge, Tirunelveli has come to the conclusion that the wife has not proved the pleadings regarding the cruelty and hence, rejected the relief of dissolution of marriage filed by the wife and allowing the relief of restitution of conjugal rights filed by the husband. Challenging both orders, the wife has filed the present Civil Miscellaneous Appeals.

3. When the matter was posted for final hearing on 10.10.2023, this Court directed the parties to present before this Court today i.e., 17.10.2023. It is brought to the notice of this Court that pending appeal, the respondent / husband filed another H.M.O.P.No.609 of 2022 under Section 13(ia) (ii) and 13(i) (ib) of Hindu Marriage Act, 1955 for dissolution of marriage solemnized on 14.11.2013, which was registered before the Sub-Registrar, Radhapuram. It is seen from the records that Domestic Violence



C.M.A(MD)Nos.102 & 103 of 2019

complaint was also filed by the wife against the husband, which is said to have been pending before the District Munsif-cum- Judicial Magistrate, Radhapuram in D.V.O.P.No.16 of 2020 and a criminal case has also been filed by the wife before the learned Judicial Magistrate, Valliyoor in C.C.No.277 of 2017 for an offence under Sections 498(A) and Section 4 of Dowry Prohibition Act. Hence, we find that there is an element of settlement, we referred the matter to the Mediation and Conciliation Centre attached to this Bench.

4. Mediation is found to be successful. Mediation report is also received. The terms of Mediation is extracted hereunder:-

“6. The following settlement has been arrived between the parties hereto:

a. The Respondent is agreed to deposit Rs. 8,00,000/- (Rupees Eight Lakh only) as fixed deposit on the name of their daughter minor Isai Priya and the petitioner Rathinaveni as nominee/mother in any one of the nationalized bank, on or before 01.11.2023.

b. The petitioner Rathinaveni is agreed to withdraw the criminal case in C.C.No.277/2017 on the file of Judicial Magistrate, Valliyoor, Tirunelveli and also agreed to withdraw D.V.O.P.No.16/2020 on the file of District Munsif-cum-Judicial Magistrate, Radhapuram,



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C.M.A(MD)Nos.102 & 103 of 2019

Tirunelveli and there is no any other further claim in this regard.

c. The Respondent is agreed and ready to give the FD deposit of Rs.8 lakhs in the name of the daughter minor Isai Priya to the petitioner Rathinaveni at the time of withdrawal the above said cases.

d. Respondent agrees to withdraw the H.M.O.P.No.609 of 2022 on the file of Family Court, Nagercoil, Kanyakumari District.

e. Both parties are agreed for granting divorce for their matrimonial dispute in pending CMAs before this Hon'ble Court."

5. Both parties present before this Court and they agreed for settlement arrived before the Mediation and Conciliation Centre and the respective parties have signed in the report along with their counsel.

6. Accordingly, the settlement arrived between the parties, dated 17.10.2023 before the Mediation is hereby recorded. It is also states that after withdrawal of C.C.No.277/2017 on the file of Judicial Magistrate, Valliyoor, Tirunelveli and D.V.O.P.No.16/2020 on the file of District Munsif-cum-Judicial Magistrate, Radhapuram on or before 01.11.2023, any interest accrued on the Fixed Deposit shall



C.M.A(MD)Nos.102 & 103 of 2019

be utilized by the mother / petitioner for the educational purpose of the children. Accordingly, in the interest of parties concerned, we hereby convert C.M.A(MD)No.102 of 2019 into mutual and the decree of divorce for dissolution of marriage solemnized on 14.11.2013 between the parties is hereby granted. The Mediation report, dated 17.10.2023 shall form part of the decree.

7. In the light of settlement arrived between the parties before the Mediation on 17.10.2023 the prayer for divorce stands decreed and the decree of restitution of conjugal rights is set aside. The Civil Miscellaneous Appeals are disposed of in the light of terms of settlement. No costs. Consequently, connected miscellaneous petition is closed.

[T.K.R.,J.] [P.B.B.,J.]
17.10.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
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C.M.A(MD)Nos.102 & 103 of 2019

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To
The Family Court,
Tirunelveli.



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C.M.A(MD)Nos.102 & 103 of 2019

RMT.TEEKAA RAMAN,J.
AND
P.B.BALAJI,J.

am

JUDGMENT MADE IN
C.M.A(MD)Nos.102 & 103 of 2019

17.10.2023