



WEB COPY



C.M.A.Nos.2787 and 2790 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.Nos.2787 and 2790 of 2019
and
C.M.P.Nos.14261 and 14254 of 2019

P. Subash @ P. Thirumoorthy
S/o.Paramasivan

..Appellant
in both C.M.As.

Vs.

K. Priya
D/o.Kuppusami Kounder

..Respondent
in both C.M.As.

Prayer in C.M.A.No.2787 of 2019: The Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, 1984, against the judgment and decree dated 04.12.2018 made in H.M.O.P.No.914 of 2016 on the file of the Additional Principal Family Court, Coimbatore.

Prayer in C.M.A.No.2790 of 2019: The Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, 1984, against the judgment and decree dated 04.12.2018 made in H.M.O.P.No.986 of 2014 on the file of the Additional Principal Family Court, Coimbatore.



C.M.A.Nos.2787 and 2790 of 2019

WEB COPY

For Appellant : Mr.V.Nicholas

For Respondent : Mr.K.Mylsamy

COMMON JUDGMENT

(Judgment of the Court was delivered by **J. Nisha Banu, J** and **R. Kalaimathi, J**)

These Civil Miscellaneous Appeals have been filed by the appellant/husband against the judgment and decree dated 04.12.2018 made in H.M.O.P.Nos.986 of 2014 and 914 of 2016 by the Additional Principal Family Court, Coimbatore, in which, the petition in H.M.O.P.No.914 of 2016 filed by the respondent/wife for restitution of conjugal rights was allowed and the petition in H.M.O.P.No.986 of 2014 filed by the appellant/husband for divorce was dismissed.

2. Today, when the matters were taken up for hearing, learned counsel for the appellant and the respondent would state that pending these appeals, the appellant and the respondent settled the issue among themselves and decided to live separately. The learned counsel for the appellant and the learned counsel for the respondent filed a Joint Memo



C.M.A.Nos.2787 and 2790 of 2019

of Compromise dated 22.10.2024 duly signed by the parties and their respective counsel. The learned counsel appearing on either side would state that the Civil Miscellaneous Appeals may be disposed of in terms of Joint Memo of Compromise.

3. The Joint Memo of Compromise, dated 22.10.2024 is extracted hereunder:-

JOINT MEMO OF COMPROMISE BY THE
APPELLANT AND THE RESPONDENT

1. The appellant herein filed a petition in H.M.O.P.No.986 of 2014 on the file of the Additional Principal Family Court, Coimbatore against the respondent herein under Sec.13(1)(i)(a) of the Hindu Marriage Act 1955 for a decree of divorce dissolving the marriage solemnized on 26.11.2012.

2.The respondent herein filed a petition in H.M.O.P.No.914 of 2016 on the file of the Additional Principal Family Court, Coimbatore, against the appellant herein under Sec.9 of the Hindu Marriage Act, 1955, for the relief of Restitution of Conjugal Rights.

3. By a common judgment dated 04.12.2018, the Additional Principal Family Court, Coimbatore, allowed the petition in H.M.O.P.No.914 of 2016 filed by the respondent and granted a decree for Restitution of Conjugal Rights. The petition filed by the appellant in H.M.O.P.No.986 of 2014 to dissolve the marriage was dismissed.



C.M.A.Nos.2787 and 2790 of 2019

WEB COPY

4. *Challenging the said order in H.M.O.P.No.986 of 2014 and H.M.O.P.No.914 of 2016, the Appellant has filed C.M.A.No.2790 and 2787 of 2019 respectively before the Hon'ble High Court of Madras.*

5. *On the advice of elders, relatives and friends and with a view to purchase peace, the appellant and the respondent decided to settle their disputes amicable by way of compromise between them on the following terms:*

A. As full and final settlement and for the maintenance of the respondent and their special child namely Jai Krishna Kumar aged about 10 years and as well as the medical expenses and education expenses of the said special child, the appellant herein is paying a sum of Rs.21,00,000/- (Rupees Twenty One Lakhs Only) by way of two Demand Drafts dated 18.10.2024 drawn on Indian Bank, Lawly Road Branch, Coimbatore, for Rs.12,50,000/- (Rupees Twelve Lakhs and Fifty Thousand Only) bearing No.224795 and for Rs.8,50,000/- (Rupees Eight Lakhs and Fifty Thousand Only) bearing No.224796 and drawn in favour of the respondent namely Smt.K.PRIYA and handed over the said Demand Drafts in open Court on 22.10.2024, the receipt of which the respondent has admitted and acknowledged the same.

B. The Appellant and the respondent agree that the petition for divorce filed by the appellant against the respondent in H.M.O.P.No.986 of 2014 on the file of the Additional Principal Family Court, Coimbatore, may be allowed and that there shall be a decree for divorce in favour of the appellant in H.M.O.P.No.986 of 2014.



C.M.A.Nos.2787 and 2790 of 2019

WEB COPY

C. As there is no possibility to rejoin and live together, the petition for restitution of conjugal rights filed by the respondent herein against the appellant herein in H.M.O.P.No.914 of 2016 on the file of the Additional Principal Family Court, Coimbatore, may be dismissed.

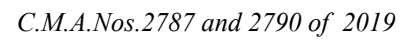
D. The respondent has filed a petition against the appellant herein under Section 12 of the Domestic Violence Act in D.V.A.No.76 of 2019 on the file of the Special Court for cases filed under Domestic Violence Act, Coimbatore and is pending. As the appellant and the respondent have settled their disputes between them the respondent shall withdraw the said proceedings unconditionally.

E. The appellant agrees that the custody of their son Jai Krishna Kumar will be with the respondent and that he shall not claim the custody of the son and also the visiting rights.

F. The appellant is returning the gold jewels of the respondent namely Aaram, Necklace and Earrings weighing approximately 10 sovereigns to the respondent in open Court and that the respondent admits and acknowledge the return of the said gold jewels.

G. The respondent is returning the gold Mangalsutra (Thaali) along with gold chain weighing approximately 6 3/4 sovereign to the appellant in open court and that the appellant admits and acknowledge the return of the said gold jewels.

H. The appellant and the respondent have no further or other claims against each other in future also.



4. As per the Joint Memo of Compromise, a sum of Rs.21,00,000/,- (Twenty One Lakhs Only) by way of two demand drafts dated 15.08.2024 bearing Nos.224795 and 224796 drawn in Indian Bank, P. O. Road Branch, Coimbatore, in favour of the respondent/wife, K.Priya and gold jewels of the respondent weighing approximately 16 3/4 sovereigns have been handed over to the respondent/wife. The above Joint Memo of Compromise filed by the respondent is taken on record.

5. In view of the above Joint Memo of Compromise filed by the appellant and the respondent, the judgment and decree dated 04.12.2018 made in H.M.O.P.Nos.986 of 2014 and 914 of 2016 by the Additional Principal Family Court, Coimbatore, is hereby set aside and the marriage solemnized between the appellant and the respondent on 26.11.2012 is dissolved and a decree of divorce is granted. Accordingly, the Civil



C.M.A.Nos.2787 and 2790 of 2019

Miscellaneous Appeal is disposed of in terms of the Joint Memo of Compromise filed by the parties. The above Joint Memo of Compromise dated 22.10.2024 shall form part of the decree. No costs. Consequently, connected miscellaneous petitions are closed.

asi

(J.N.B, J.) (R.K.M., J.)
22.10.2024

To

The Additional Principal Family Court,
Coimbatore.



WEB COPY



C.M.A.Nos.2787 and 2790 of 2019

J. NISHA BANU, J.
and
R.KALAIMATHI, J.

asi

C.M.A.Nos.2787 and 2790 of 2019
and C.M.P.Nos.14261 and 14254 of 2019

22.10.2024