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C.M.SA.No.33 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.SA.No.33 of 2023

S.A.Palanisamy

...Appellant/Respondent/Petitioner

Versus

S.Sathiyasundari

...Respondent/Appellant/Respondent

PRAYER: Civil Miscellaneous Second Appeal has been filed under Section 13 (1) (i-a) (i-b) of the Hindu Marriage Act r/w Section 100 of C.P.C against the Judgment and Decree dated 09.02.2023 passed in C.M.A.No.24 of 2022 on the file of III Additional District Court, Gobichettipalayam, Erode District reversing the Fair and Decretal order dated 14.10.2020 made in H.M.O.P.No.73 of 2015 on the file of the Subordinate Court, Gobichettipalayam and pray to set aside the same.

For Appellant : Mrs.Kavitha
for Mr.S.Kaithamalai Kumaran

For Respondent : Mr.S.Bharanidharan
for
Mr.B.Mohan



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JUDGMENT

The above Civil Miscellaneous Second Appeal has been filed challenging the Judgment and Decree dated 09.02.2023 in C.M.A.No.24 of 2022 on the file of III Additional District Court, Gopichettipalayam, Erode District reversing the Fair and Decreetal order dated 14.10.2020 made in H.M.O.P.No.73 of 2015 on the file of the Subordinate Court, Gopichettipalayam.

2.Pursuant to the orders of this Court, the parties were referred to mediation and they had arrived at a Settlement Agreement dated 21.11.2023, by which the party of the first part namely the appellant had to execute certain Deeds in favour of his minor child, appointing the respondent as guardian. Since the said documents were not executed when the matter was listed on earlier occasions and there was difference of opinion between the parties with regard to the recitals in the said document, this Court referred the parties once again to mediation on 22.01.2024. Pursuant to the second mediation, the appellant had executed the necessary documents on 28.02.2024 in favour of the respondent.



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3. In view of the above, this Court is of the view that the above

Civil Miscellaneous Second Appeal may be disposed of in terms of the Settlement Agreement between the parties dated 21.11.2023.

The said Settlement Agreement reads as follows:

"6. The following settlement has been arrived at between the Parties hereto:

A. The First Party shall execute a Deed of Cancellation of the Sale Deed dated 08.08.2008 registered as Doc.No.: 2517/2008 on the file of Nambiyur Sub-registrar Office executed by Mr.K.Subramaniam in favour of the First Party with respect to the property more full described in SCHEDULE – I hereunder before the Nambiyur Sub-Registrar Office at his own cost within a period of One month from the date of this Agreement.

B. The First Party shall execute SETTLEMENT DEED in favour of his special child namely Mr.Bhoopesh aged about 15 years of appointing the Second Party as guardian with respect to the properties purchased by him through Doc.Nos.2533/2008 and 2534/2008 more fully described in SCHEDULE – II hereunder before the Nambiyur Sub-Registrar Office at his own cost within a period of One month from the date of this Agreement.



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C. Upon the execution of the above said two deeds mentioned in Clause (A) and (B) by the First Party, the Second Party shall withdraw the maintenance case in M.C.No.3 of 2023 on the file of the Judicial Magistrate No.2, Gobichettipalayam, Erode District filed by her against the First Party, and Second Party shall give the consent for divorce and to allow the CMSA.No.33 of 2023 pending before the Honourable High Court of Madras.

D. Further upon the execution of the above said two deeds mentioned in Clause (A) and (B) by the First Party, the Second Party shall withdraw the O.S.No.143 of 2015 on the file of the District Munsif Court, Gobichettipalayam, Erode District filed by her father against the First Party and the First Party shall co-operate with the Second Party in obtaining original documents from the Court.

E. Further Second Party herewith relinquish all her lifetime maintenance right for herself and children as well as claim any manner of right over the movable or immovable properties of the First Party hereafter and the First Party shall also no right the Property mentioned in Doc.Nos. 2533/2008 and 2534/2008."

The Settlement Agreement dated 21.11.2023 shall form part of the decree.

4. Accordingly, this Civil Miscellaneous Second Appeal is ordered in



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terms of the Settlement Agreement dated 21.11.2023. It is also open to the parties to approach the Family Court concerned for divorce as agreed between them in the Settlement Agreement dated 21.11.2023. No Costs.

04.03.2024

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Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

Copy to:

1.The III Additional District Court,
Gobichettipalayam,
Erode District.

2. The Subordinate Court
Gobichettipalayam.

SUNDER MOHAN, J

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