



C.M.A.No.1712 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

**C.M.A.No.1712 of 2020
and CMP.No.12675 of 2020**

B.Ramakrishnan

..Appellant

Vs.

B.Sophia

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, to set aside the judgment and decree dated 31.12.2019 passed in H.M.O.P.NO.815 of 2014 on the file of the learned Principal Family Judge, Coimbatore.

For Appellant : Mr.V.S.Senthilkumar

For Respondent : Mr.K.Balasubramanian

J U D G M E N T

(The Judgment of the Court was made by Mrs.J.Nisha Banu,J.)

This civil miscellaneous petition has been filed by the appellant/husband against the fair and decreetal order 31.12.2019 passed



C.M.A.No.1712 of 2020

WEB COPY

in H.M.O.P.NO.815 of 2014 on the file of the learned Principal Family Judge, Coimbatore, filed by the appellant /husband for grant of divorce.

2. Today, when the matter is taken up for hearing, learned counsel for the appellant and the respondent would state that pending the appeal, the appellant and the respondent settled the issue among themselves and they have also filed a Joint Memo of Compromise dated 18.11.2024 duly signed by the parties and their respective counsel. Learned counsel appearing on either side would also state that the Civil Miscellaneous Appeal may be disposed of in terms of the joint memorandum of compromise and that the marriage dated 28.01.2007 performed between the parties may be dissolved.

3. The Joint Memorandum of Compromise dated 18.11.2024, entered between the parties is extracted hereunder:

"JOINT MEMO OF COMPROMISE"

This Joint Memo of Compromise is executed at Chennai on this the 18th day of November 2024.

Between

Mr. B. Ramakrishnan, S/o. Bose, Hindu, aged about 46 years, residing at No. 3, Devi Residency, Thudiyalur, Coimbatore – 641 029, hereinafter referred to as the First Party.



C.M.A.No.1712 of 2020

And

Mrs. B. Sophia, D/o. Bheeman, aged about 40years, residing at No. 4/464, Aruna Nagar,K. Vadamadurai,Coimbatore – 641 017, hereinafter referred to as the Second Party.

The First Party and the Second Party got married to each other on 28.01.2007 at the residence of the First Party in Edakadu, Nilgiris and the marriage has been duly registered with the Registrar of Marriages and from the wedlock they have been blessed with two children a son named Master Aakash presently aged about 17 years and a daughter named Miss Akshara presently aged about 12 years.

The First Party has preferred a petition seeking divorce in H.M.O.P No. 815 of 2014 on the file of the Principal Family Judge, Coimbatore and the Learned Judge was pleased to dismiss the petition and being aggrieved with the same the First Party preferred a C.M.A No. 1712 of 2020 on the file of this Hon'ble Court and the same is pending.

The Second Party has preferred a Domestic Violence Complaint in D.V.C No. 41 of 2014 on the file of Learned Judicial Magistrate No. I, Coimbatore and subsequently the said D.V.C No. 41 of 2014 was renumbered as D.V.C No. 292 of 2019 on the file of the Judicial Magistrate for Domestic Violence Cases, Coimbatore. The Second Party has obtained an order in D.V.C No. 292 of 2019 by an order dated 10.02.2023 and the said order has been duly challenged by the First Party and the same is pending as Criminal Appeal; 135 of 2023on the file of the Hon'ble III Additional District Judge, Coimbatore.



C.M.A.No.1712 of 2020

WEB COPY

The Second Party has preferred a suit in O.S No. 851 of 2023 on the file of the Hon'ble III Additional District Judge, Coimbatore seeking a relief of cancellation of the Sale Deed dated 27.04.2023 bearing the Document No. 8624 of 2023 on the file of the Sub Registrar, Periyanaickenpalayam and the same is pending.

The First Party states that as on date he has paid a total sum of Rs. 37,43,147/- [Rupees Thirty Seven Lakhs Forty Three Thousand One Hundred and Forty Seven Only] towards the payment of maintenance and there are no arrears in payment of maintenance and the Second Party duly acknowledges the same.

The parties pending the above mentioned proceedings have arrived at a settlement and they have voluntarily on their own willingness have agreed to amicably settle the issue between themselves with an intention to give a quietus for long pending litigation and to lead a peaceful life. Accordingly, the parties have arrived at a settlement on the conditions stipulated in this Joint Memo of Compromise and the covenants agreed between the parties are reduced hereunder.

Now the Terms & Conditions of the Memorandum of Understanding is as follows:

i. The First Party and the Second Party covenant that they have mutually agreed to dissolve their marriage and this Hon'ble Court may be pleased to pass a decree of divorce dissolving the marriage between the First Party and the Second Party solemnized on 28.01.2007.



WEB COPY



C.M.A.No.1712 of 2020

- ii. *The First Party and the Second Party covenant that the permanent custody of the children Master Aakash and Miss Akshara will remain with that of the Second Party.*
- iii. *The First Party has agreed to settle the below mentioned two properties jointly in favour of Master Aakash, Miss Akshara and Mrs. B. Sophia [the second party herein] as full and final settlement, the Second Party Mrs.B.Sophia and the minor children Master Akash and Miss Akshara will not make any further or future claim in any from the First Party.*

Property I

a.a tea estate admeasuring an extent of 1 acre situated at Mulligoor Village , Ooty, The Nilgiris standing under Survey Field No.225/1C1C standing in the name of the father of the First Party Mr.B.Bose by virtue of a settlement deed dated 05.11.2024 bearing No. 1172/2024 duly registered before the Joint II Sub Registrar of Udthagamandalam, the settlement deed will be executed jointly in favour of the Second Party, Master Aakash & Miss Akshara.

Property II

b.a house property on the file of the Joint II Sub Registrar of Udthagamandalam standing in New Survey No. 812/11 bearing Door No.1/1 30 ,ST -1 Mel Naduhatty with assessment No.271 , Ward No.2, Bikkatti Panchayat, the settlement deed will be executed jointly in favour of the Second Party, Master Aakash & Miss Akshara. Since it is the dwelling house of the First Party, the First Party undertakes to vacate and hand over vacant possession of the property to the Second Party on or before 31.12.2024 and the Second Party also acknowledges for the same.



C.M.A.No.1712 of 2020

WEB COPY

iv. *The Second Party covenants that on execution of the abovementioned settlement deeds she will immediately withdraw the suit in O.S No. 851 of 2023 pending on the file of the Hon'ble III Additional District Judge, Coimbatore and the Maintenance Case under M.C No.13 of 2021 pending on the file of the Hon'ble Principal Family Court Coimbatore. The First Party covenant that he will withdraw the Criminal Appeal No.135 of 2023 pending on the file of the Hon'ble III Additional District Judge, Coimbatore.*

v. *The Second Party covenants that the properties jointly settled in favour of Master Akash , Miss Akshara and the Second Party is the full and final settlement between the parties and the second party further covenants that she and the minor children Master Akash and Miss Akshara will not have any kind of further or future claim of any sorts as against the First Party. Both the parties covenant to strictly adhere to the terms and conditions stipulated hereinwithout any Breach of Trust.*

vi. *The First Party and the Second Party covenant that they have returned their jewels, articles, documents and neither of the parties have any articles to be exchanged nor their claim in this regard.*

vii. *The First Party and the Second Party covenant that they hereby undertake that they will not file any case against each other in future pertaining to any claim.*

viii. *The first party and the second party [for herself and on behalf of her minor children Master Aakash and Miss*



C.M.A.No.1712 of 2020

WEB COPY

Akshara] have signed this Memorandum of Understanding with their free will and free consent without any Duress or Coercion or Undue Influence and after fully understanding the terms and conditions of this Memorandum of Understanding on this the 18th day of November 2024."

4. Thus in terms of the Joint Compromise Memo,

(i) there shall be decree for divorce between the appellant and the respondent.

(ii) the order dated 31.12.2019, passed in H.M.O.P.NO.815 of 2014 , is hereby set aside.

5. The Civil Miscellaneous Appeal is disposed of in terms of the Joint Compromise Memo dated 18.11.2024 and the same shall form part of the decree. No costs.

(J.N.B,J.) (R.S.V., J.)
18.11.2024

sk

To
The Principal Family Judge, Coimbatore.



WEB COPY



C.M.A.No.1712 of 2020

J. NISHA BANU, J.
and
R.SAKTHIVEL, J.

sk

C.M.A.No.1712 of 2020

18.11.2024