



Crl.R.C.No.1786 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1786 of 2023

and

Crl.M.P.No.16915 of 2023

J.Moses Suresh

@ J.Moses Suresh Kumar

... Petitioner

Vs.

Clarence Kalavathy

... Respondent

PRAYER: Criminal Revision Case is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the impugned order dated 20.03.2023 passed by the learned III Additional Principal Family Court at Chennai in M.C.No.22 of 2017.

For Petitioner : Mr.D.J.Adinarayanan

For Respondent : Mr.P.S.Vaideeswaran



ORDER

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This Court, on 05.03.2024, had passed the following order:

“This Court, on 28.11.2023, had passed the following order:

“The petitioner, who is the estranged husband of the respondent was directed to pay a sum of Rs.15,000/- per month to the respondent as maintenance from 12.01.2017. Aggrieved against the same, the petitioner preferred the present revision. Now the learned counsel for the petitioner requested that the matter may be referred to a Mediation Centre so that it can be given quietus once for all. It is seen that it is a family dispute between the husband and wife and with regard to maintenance. It is also seen that both of them were separated 20 years back and the petitioner is aged about 61 years.

2.Hence, with the consent of learned counsel appearing on both sides, the matter is referred to the Tamil Nadu Mediation and Conciliation Centre, High Court, Madras.

3.The Registry is directed to place this matter before the Mediation Centre and after completion of mediation proceedings, list the matter before this Court.”

2.In continuation and conjunction to the earlier order passed by this Court on 28.11.2023, the Mediation Report along with the Settlement Agreement dated 13.02.2024, signed by the petitioner,

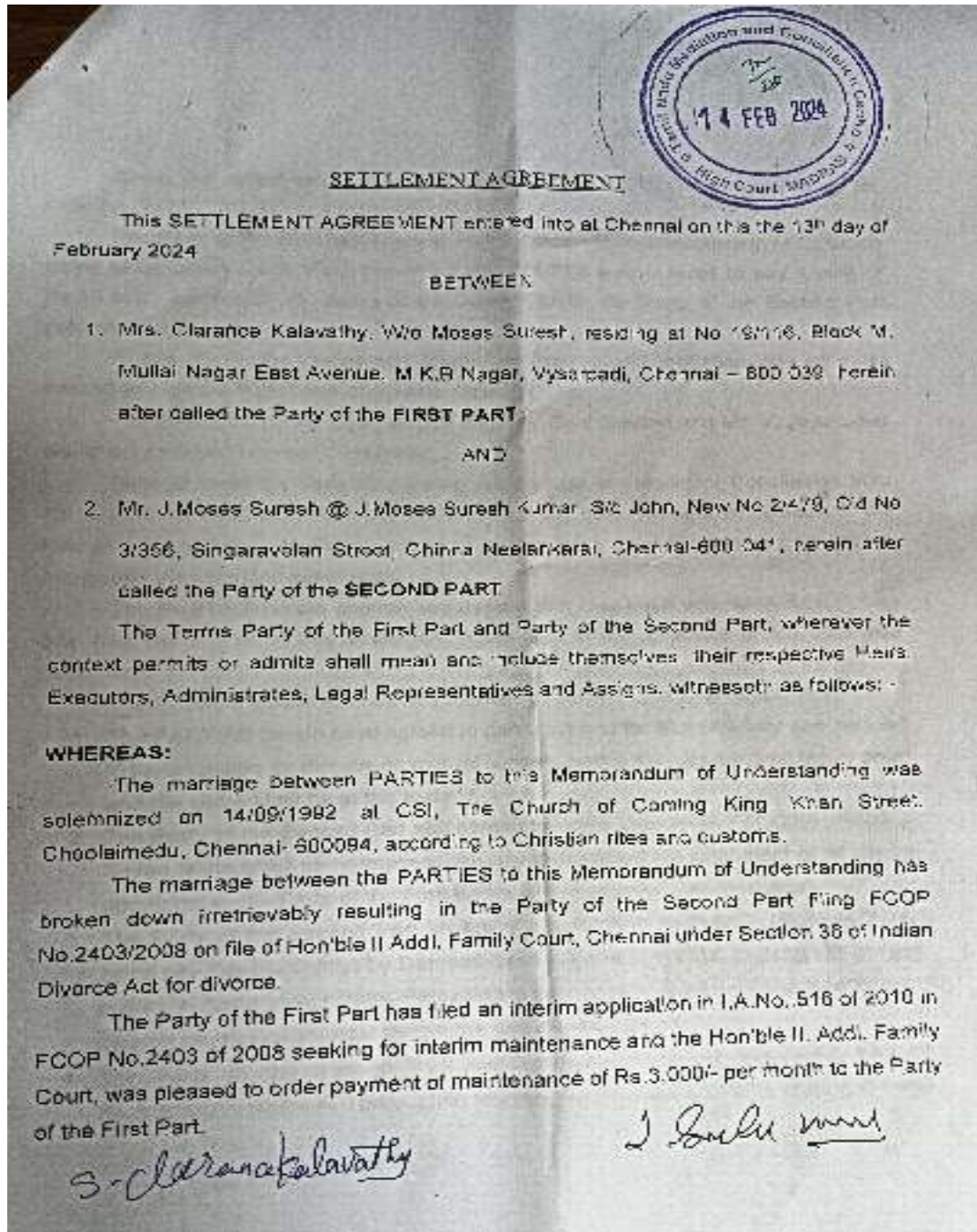


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respondent and their respective counsel, produced. A scanned reproduction of the Settlement Agreement reads as follows:





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Since, the maintenance as ordered was not paid the FCOF was dismissed for default.

The Party of the First Part has also filed a petition for maintenance in M.C., which came to be allowed and the Party of the Second Part was ordered to pay a sum of Rs.15,000/- per month as maintenance against which the Party of the Second Part preferred an appeal.

At this stage, the matter was referred to mediation/ conciliation vide an order passed by Hon'ble High Court of Madras, Chennai.

The PARTIES hereto have agreed that Mrs. Bala Sundari and Mr. V. Jayakumar would act as their Mediator/ Conciliator.

Several meetings were held during the process of Mediation/ Conciliation from 15/12/2023 to 13/02/2024 and the PARTIES hereto have with the assistance of the Mediator/ Conciliator voluntarily arrived at an amicable solution resolving the above mentioned disputes and differences.

The PARTIES hereto confirm and declare that they have voluntarily and of their own free will arrived at this Settlement Agreement in the presence of the Mediator/ Conciliator.

The following settlement has been arrived at between the PARTIES hereto:

1. The PARTIES hereto have agreed to part once and for all peacefully and decided to file a petition for divorce on mutual consent before the jurisdictional family court and the same shall be at the earliest.
2. The Party of the Second Part has agreed to pay a sum of Rs.7,00,000/- (Rupees Seven lakhs only) as permanent alimony in full and final settlement of all claims and rights of the Party of the First Part arising out of the said marriage.
3. The Party of the Second Part shall pay a sum of Rs.3,50,000/- (Rupees Three lakhs fifty thousand only) by Demand Draft dated 05/02/2024, bearing No.311298 drawn on Karur Vysya Bank, Palavakkam Branch on the date of filing a petition for divorce on mutual consent before the jurisdictional court.
4. The Party of the Second Part has agreed to pay the remaining sum of Rs.3,50,000/- (Rupees Three lakhs fifty thousand only) at the time of filing of proof

S. Jaganakalathur *J. Subramanian*



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affidavit in the petition that is proposed to be filed seeking for divorce on mutual consent.

First.

5. The Party of the ~~Second~~ Part hereby agrees to withdraw all the pending proceedings, including the maintenance case.
6. The PARTIES hereto agree that with the above, there shall be no rights or obligations of either of the PARTIES towards the other Party.

By signing this Agreement, the PARTIES hereto state that they have no further claims or demands against each other with respect to Maintenance Case and all disputes and differences in this regard have been amicably settled by the PARTIES hereto through the process of Conciliation/ Mediation.

Date: 13/02/2024

PARTIES' SIGNATURE

PETITIONER

S. Charano Kalavathy

RESPONDENT

COUNSELS' SIGNATURE

PETITIONER

RESPONDENT





3.As per the Settlement Agreement, the petitioner agreed to pay Rs.7,00,000/- (Rupees Seven Lakhs only) as accepted by the respondent as permanent alimony. The petitioner also paid Rs.3,50,000/- (Rupees Three Lakhs and Fifty thousand only) and the balance Rs.3,50,000/- to be paid after getting divorce on mutual consent. It is an admitted fact that both of them are living separately from 10.03.2008. Further, learned counsel for the petitioner referring to the impugned order submitted that the petitioner, apart from this Rs.7,00,000/-, paid Rs.3,00,000/- to the respondent, which is recorded in paragraph 28 of the impugned order dated 20.03.2023.

4.Both parties have filed a mutual Divorce petition under Section 10-A of Divorce Act, 1869 before the Family Court, Chennai on 13.02.2024 and for some reasons, it has been returned for making corrections and thereafter, corrections have been carried out and a fresh petition was filed in S.R.No.855 of 2024, which is yet to be numbered. As soon as it is numbered, the petitioner shall pay the balance amount.

5.It is seen that as early as on 13.02.2024, mutual divorce petition has been filed. In view of the non numbering of the mutual divorce petition, the petitioner is unable to pay the balance amount. In view of the same, the Registry of the Family Court, Chennai is directed to number the divorce petition filed in S.R.No.855 of 2024, without further delay and list it before the Principal Family Judge, Chennai, who can consider the mutual divorce petition or made over to an appropriate Additional Family Court, Chennai.



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6.In view of the admitted position that the petitioner and respondent were living separately from 10.03.2008, the concerned Family Court, Chennai shall consider the mutual consent divorce petition and grant divorce. The said exercise to be completed on or before 22.03.2024.

7.List the case on 25.03.2024.”

2.In continuation and conjunction to the earlier order passed by this Court on 05.03.2024, today, the learned counsel for petitioner and respondent submitted that pursuant to the understanding entered between them, divorce by mutual consent was granted by the Family Court, Chennai in O.P.No.938 of 2024 on 22.03.2024. Now the dispute between the petitioner and respondent got resolved. In view of the above, the order passed in M.C.No.22/2017, dated 20th March, 2023, has no force and relevance and becomes infructuous.

3.Recording the above submission, this Criminal Revision Case is disposed of. Consequently, connected Criminal Miscellaneous Petition is closed.

25.03.2024

Speaking order/Non-speaking order

Index: Yes/No

Neutral Citation: Yes/No

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M.NIRMAL KUMAR, J.

rsi

To

- 1.The III Additional Principal Family Judge,
Chennai.
- 2.The Public Prosecutor,
High Court, Madras.

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