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C.R.P.No.4255 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4255 of 2024 &
CMP.Nos.23652 & 23653 of 2024

G.Sowmya

.. Petitioner

Versus

N.Ram

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the II Additional Family Court at Chennai to dispose of HMOP.No.584 of 2024 on day to day hearing basis.

For Petitioner : Mr.V.Prakash, Senior Counsel,
Mr.D.Christopher

For Respondent : Ms.Petritia for
Mr.Ramesh

ORDER

This civil revision petition seeks for a direction to the II Additional Family Court at Chennai to dispose of HMOP.No.584 of 2024.



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2. When the revision came up for admission, I heard Mr.V.Prakash, learned Senior Counsel for Mr.Christopher for the revision petitioner and requested them to serve the papers on the counsel, who represents the respondent in the court below.

3. Papers were served and Ms.Petritia has entered appearance for the respondent.

4. After hearing both sides, it became clear that neither parties are interested in continuing the matrimony that they had entered into. The matter was subsequently adjourned for the parties to discuss the issues between them and to file a memo before this Court. Accordingly, both the civil revision petitioner and respondent appeared before this Court and signed the memo, which was countersigned by their respective counsels.

5. In the memo, the petitioner and the respondent request that the petition filed in HMOP.No.584 of 2024 be converted to a petition under Section 13B of the Hindu Marriage Act. They further state that they have been separated for more than a year. The reasons for separation need not be



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gone into here. It is evident from the paragraph No.14 and subsequent paragraphs in HMOP.No.584 of 2024.

6. I have enquired with the parties.

7. Both of them stated that they have filed this joint memo with full consent and after being aware of the contents thereof. On account of the peculiar circumstance which prevails in this case, pushing the parties for trial and asking them to continue with the matrimony till a decree is passed by the court, would in my view amount to harassment. The marriage is dead for all practical purposes and it is surviving only in paper.

8. As pointed out above, the parties have separated over a year i.e., since 13.11.2023. If they were to file 13B petition all over again, then no purpose will be served other than increasing the docket of the Family Court. In similar circumstances, this court in ***L.Juliet Ann D' Cruz v. X.Aloysius Xavier Lopez in Tr.CMP.No.610 of 2013 dated 23.07.2015*** exercising its jurisdiction under Article 227 of the Constitution of India had withdrawn the divorce proceedings to itself and granted divorce by consent.



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9. Applying the said precedent to the facts of the present case, HMOP.No.584 of 2024 is withdrawn from the file of the learned II Additional Family Court, Chennai and transferred to the file of this court, and the same is converted into 13B of the Hindu Marriage Act.

The joint memorandum of compromise is extracted hereunder:



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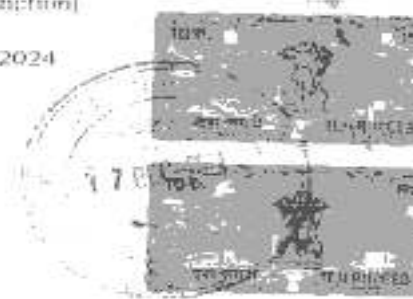
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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Revisional Jurisdiction)

CRP. No. 4255 of 2024

G. Sowmya,
D/o B. Ganapathiraman,
No: 135/149, Ground Floor, A Flat,
Sarbham Enclave,
Perivar Puthal, Cholalamedu,
Chennai - 600 094



..... Petitioner

Vs

N. Ram,
S/o K Natarajan,
Plot No 32, Nehru Street,
Maruthi Nagar, Phase 1
Thundalani, Vyaparthangal,
Chennai - 600 077

..... Respondent

**JOINT MEMO FILED ON BEHALF OF
THE PETITIONER AND THE RESPONDENT**

The Petitioner and the Respondent humbly submits as follows:

1. The Petitioner and the Respondent entered into marriage in accordance with Hindu rites and customs at Yuga Kalvans Mahal, Srirangam Trichy on 19.02.2016. Out of the wedlock was born a female child on 29.05.2018 by name Ms. R. Adithi, presently aged about 6 years and studying at Sree Vidya Mandir Global School at Kodambakkam.

DR. L
C. J. R.

C. J. R.

N. R.



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3. The Petitioner and the Respondent had such deep differences in the marriage and the marriage has irretrievably broken down. The Petitioner had filed H.M.O.P No. 584 of 2024 on the file of Hon'ble II Additional Family Court at Chennai, for dissolution of marriage u/s 13(1)(v) of the Hindu Marriage Act, 1955.

3. Thereafter, the Petitioner filed above CRP for the expeditious hearing of the said H.M.O.P, when during the pendency of the Civil Revisional Petition, the parties have agreed to dissolve the marriage by mutual consent and accordingly this Hon'ble Court passed order on 04.11.2024, directing the parties to file an application for dissolution of their marriage by mutual consent under section 13B of the Hindu Marriage Act, waiving the 6 month period visualized under the said provision for the Hon'ble II Additional Family Court to grant the decree for divorce. However, the Respondent brought up the issue of visitation rights and therefore the C.M.P No. 26870 of 2024 has been filed for modification. The parties presently have resolved the aspect of visitation rights and have come to an agreement and accordingly are filing the present joint memo which may be taken on record for the purpose of passing appropriate orders.

- a. The Petitioner and the Respondent both consent on their own free will that the marriage solemnized between them on 19.02.2016, at Yoga Kalyana Mahal, Srirangam, Tiruchy, be dissolved by mutual consent.
- b. The custody of female child Ms. R Adhiti will be with the mother namely the Petitioner herein.
- c. The father namely the Respondent herein will have the rights of visitation in the following manner;
 - i. The Respondent will pick up and drop off the daughter Ms. R. Adhiti from the petitioner or petitioner's representative at Arumbakkam Metro Station twice a

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month on every 2nd and 4th Sundays which includes one Navaratri Sunday between 9.30 AM to 5.30 PM,

- ii As the minor Ms. Adhiti is only 6 years old, she cannot stay without her mother overnight. Hence it is agreed that overnight stays of Ms. R. Adhiti is not permitted.
- iii The Respondent may pick up and drop off the daughter Ms. Adhiti from the petitioner or petitioner's representative at Arumbakkam Metro Station, Ms. R. Adhiti's birthday(29th May), the Respondent's birthday (30th October), Pongal festival and on Diwali festival, to pick up at 2.00 PM and drop her back at 6.00 PM.
- iv. The Respondent may pick up and drop off the daughter Ms. Adhiti from the petitioner or petitioner's representative at Arumbakkam Metro Station every Sunday between 9.30 AM to 5.30 PM, during Annual Holidays, specifically in the month of May or June.
- v. The respondent can visit his daughter at her School on the School Annual day and Sports day.
- vi. The Petitioner will not take her daughter to foreign countries or any other state in India without prior mutual discussion and agreement for the betterment of her daughter's future. However, she will be permitted to take the daughter for vacations after informing the respondent giving him information as to where she is being taken for vacation.
- vii. The respondent father will pay a monthly maintenance of Rs. 10,000/- Per Month for the child, apart from bearing 50% of her school fees and educational expenses which will be remitted into the Petitioner's Savings



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Account 91601002171S195, Axis Bank, Vadapalani Branch, IFSC Code UTIB0002558.

viii. The petitioner does not seek any maintenance for herself as she is employed.

4. The petitioner does not press any of the grounds urged in the H.M.O.P No 584 of 2024 and the said averments may be treated as withdrawn in view of the Respondent agreeing to the dissolution of marriage under mutual consent.
5. The Petitioner and the Respondent agree that H.M.O.P No. 584 of 2024 may now be treated as a petition for the dissolution of marriage filed under section 13B of the Hindu Marriage Act.
6. Both parties hereby undertake to maintain total confidentiality with regard to circumstances leading to the dissolution of their marriage and cooperate for a healthy upbringing of the child Ms. R. Adhiti.
7. The parties hereby pray that this Hon'ble Court to record the terms of this Joint Memo and dispose of H.M.O.P No 584/2024 on the file of Hon'ble II Additional Family Court, by withdrawing the same to the file of this Hon'ble Court granting the decree of dissolution of the marriage solemnized between petitioner and the respondent on 19.02.2016 and render justice.

Dated at Chennai on this the 17th day of December 2024.


Petitioner


Counsel for the Petitioner


Respondent


Counsel for the Respondent



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10. The terms of the settlement agreed between the parties in and by way of the memo dated 17.12.2024 is recorded. The memo shall form a part of the order in this petition. Consequently, the marriage that had taken place between the petitioner and the respondent, as per the Hindu Rites and Customs, at Yoga Kalyana Mahal, Srirangam, Trichy on 19.02.2016 stands dissolved.

11. This civil revision petition is disposed of in terms of the compromise memo. No costs. Consequently, the connected miscellaneous petitions are closed.

17.12.2024

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Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no



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To

The II Additional Family Court at Chennai



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V.LAKSHMINARAYANAN, J.

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