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C.M.A.No.1098 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2024

CORAM

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

C.M.A.No.1098 of 2023
and
C.M.P.No.10544 of 2023

S.Udayakumar
S/o.V.G.Santhanam

..Appellant

Vs.

P.Sumathi,
W/o.S.Udayakumar

..Respondent

Prayer: The Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, 1984, against the order and decretal order dated 01.04.2022 passed by the learned Judge, Family Court, at Vellore in F.C.O.P.No.212 of 2016.

For Appellant : Mr.N.Kishore Kumar

For Respondent : Mr.K.Mohanamurali



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J U D G M E N T

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

This Civil Miscellaneous Appeal has been filed by the appellant/ husband against the order and decretal order dated 01.04.2022 passed by the learned Judge, Family Court, at Vellore in F.C.O.P.No.212 of 2016, in which, the petition filed by the respondent/wife for restitution of conjugal rights was allowed.

2. When the matter was taken up for hearing on 20.09.2024, learned counsel for the appellant stated that the appellant had agreed to settle a sum of Rs.25,00,000/- as permanent alimony in favour of the respondent/wife and their son, for which, the respondent/wife, who was present before this Court, also agreed. Therefore, this Court suggested the parties to file a joint compromise memo and posted the matter on 16.10.2024.

3. Today, a joint consent memo dated 17.10.2024 is filed which is 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 joint consent memo filed by the parties and that the marriage dated 17.06.2005, performed



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between the parties may be dissolved.

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4. The joint consent memo filed by the parties dated 17.10.2024 is extracted hereunder:

***CONSENT MEMO FILED BY THE PETITIONER AND
RESPONDENT***

The Appellant and Respondent submits as follows,

1. The present Appeal is against the order and decretal order dated 01.04.2022 passed by the learned Judge, Family Court at Vellore in F.C.O.P.No.212 of 2016 ordering Restitution of Conjugal Rights. The Appellant and Respondent also submit that petition for Divorce between them in F.C.O.P.No.331 of 2019, on the file of the Vellore Family Court (Originally H.M.O.P.No.113 of 2015, on the file of the Sub Court Hosur, subsequently transferred to Vellore Family Court) is pending for more than 9 years.

2. The Appellant and Respondent are living separately since 2010.

3. The Appellant and Respondent have a Minor son named Jayesh Kumar born on 18.07.2008 living with the Respondent/Mother and is in her sole custody and guardianship.



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4. In order to put an end to continuous litigations and have a peaceful life the Appellant and the Respondent have agreed for a decree of divorce. The Appellant and the Respondent are submitting to decree to dissolve their marriage by a decree of divorce on the following terms and conditions:-

- a) The order and decreetal order dated 01.04.2022 passed by the learned Judge, Family Court at Vellore in F.C.O.P.No.212 of 2016 to be set aside and the same is to be dismissed as settled.*
- b) The Appellant and Respondent submit that the petition for Divorce between them in F.C.O.P.No.331 of 2019 on the file of the Vellore Family Court (Originally H.M.O.P.No.113 of 2015, on the file of the Sub Court Hosur, subsequently transferred to Vellore Family Court) shall stand disposed of as per the Mutual Divorce prayed in the Memo hereunder.*
- c) The Appellant and Respondent have a Minor son named Jayesh Kumar born on 18.07.2008 living with the Respondent/Mother. The Respondent/*



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Mother shall have full custody and guardianship of said Minor Jayesh Kumar.

- d) The Appellant this day pays to the Respondent a single payment of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) by Demand Draft/Cheque dated 14.10.2024, No.982124, drawn on Canara Bank, Hosur Branch at Titan Industries Ltd., to the Respondent before this Hon'ble Court as permanent alimony and maintenance to the Respondent.*
- e) The Respondent also gives up maintenance as granted in F.C.M.C.No.39 of 2019 on the file of the Family Court, Vellore in view of the above permanent alimony and maintenance to the Respondent.*
- f) The above said payment by Appellant to the Respondent is towards permanent alimony and for the Maintenance of the Respondent and in full quit of any further claim. There shall not be any other claim by the Respondent from the Appellant including maintenance at any point of time in future.*
- g) All claims other claims financial or otherwise, and arising out of the marital*



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relationship have been since been fully and finally settled amicably. The Appellant and Respondent have taken the return of their respective articles and neither the Appellant nor the Respondent have any further or future claim whatsoever against the other.

h) It is agreed between the parties that the tranquility and harmony in the private lives of the Appellant and the Respondent should not be disturbed forever by other party interfering in future.

The Appellant and Respondent therefore pray that this Hon'ble Court be pleased to dissolve the marriage between them on 17.06.2005, at Seiva Vinayagar Temple, Senbakkam, Vellore District by a decree of divorce and grant such further or other orders deemed fit and proper in the circumstances of the case and thus render justice.

4. As per the joint consent memo, a sum of Rs.25,00,000/-, by way of demand draft dated 14.10.2024 drawn in Canara Bank, Hosur Branch, drawn in favour of the respondent/wife, has also been handed over to



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respondent/wife. The above joint consent memo filed by the parties is recorded.

5. In view of the above joint consent memo filed by the appellant and the respondent, the order and decretal order dated 01.04.2022 passed by the learned Judge, Family Court at Vellore in FCOP.No.212 of 2016 are hereby set aside and the marriage solemnized between the appellant and the respondent on 17.06.2005 is dissolved and a decree of divorce is granted. Accordingly, the Civil Miscellaneous Appeal is disposed of in terms of the joint consent memo filed by the parties. The above joint memo dated 17.10.2024 shall form part of the decree. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B,J.) (R.K.M., J.)
17.10.2024

Index : Yes / No
Internet : Yes
vsi

To

The Judge,
Family Court,
Vellore



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

vsi

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17.10.2024