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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.S.A(MD)No.20 of 2014

and

M.P(MD)No.1 of 2014

B.Kumararaja

... Appellant

Vs.

A.Nalini

... Respondent

PRAYER: Civil Miscellaneous Second Appeal is filed under Section 28 of Hindu Marriage Act & Section 100 of Civil Procedure Code to set aside the Judgment and Decree, dated 18.02.2014 passed in H.M.C.M.A No.01 of 2011 on the file of the District Court, Sivagangai, by reversing the Judgment and Decree, dated 14.09.2010 passed in H.M.O.P.No130 of 2007 dated 14.09.2010 on the file of the Subordinate Court, Sivagangai.

For Appellant : M/s.S.Vijaya Shanthi

For Respondent : Mr.G.Mohankumar

JUDGEMENT

The Husband has preferred this Civil Miscellaneous Second Appeal against the Judgment and Decree, dated 18.02.2014 passed in H.M.C.M.A No.01 of 2011 on the file of the District Court, Sivagangai, by



reversing the Judgment and Decree, dated 14.09.2010 passed in H.M.O.P.No130 of 2007 dated 14.09.2010 on the file of the Subordinate Court, Sivagangai.

2. The Husband/Appellant had preferred a petition for divorce in H.M.O.P.No.130 of 2007 seeking divorce and the Trial Court has granted divorce. Aggrieved over the wife had preferred an appeal in H.M.C.M.A No.01 of 2011 and the same was allowed setting aside the judgment passed by the Trial Court. Hence the present appeal is preferred by the Husband.

3. This Court tried to compromise between the parties and on such effort the parties had agreed to settle the issue among themselves. The Appellant/ Husband is ready and willing to give a sum of Rs.5,00,000/- as lump sum maintenance on or before 02.09.2024 and the wife has agreed to receive the same as lump sum maintenance. Further the husband had agreed to hand over the house hold articles as well as 4½ Sovereign jewels to the respondent/wife. The wife had agreed to withdraw the maintenance petition which was filed in the competent court. To this effect a joint compromise memo has been filed, in which both the parties and their respective Counsels have signed and the same is extracted hereunder:



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IN THE HIGH COURT OF JUDICATURE AT MADRAS, MADURAI
BENCH
CMSA 20/2014

B.Kumararaja,
S/o Balasubramanian,
Dr.No.7/17, Kamala street,
Sivagangai Town, Sivagangai District. Appellant/Husband

Vs.

A.Nalini,
D/o Arunachalam,
Dr.No.179-2/23C, Melasathiram,
Paramakudi Town,
Ramanathapuram District. Respondent/Wife

JOINT COMPROMISE MEMO

AFFIDAVIT OF B.KUMARARAJA AND A.NALINI

We, No.1. B.Kumararaja, S/o Balasubramanian, Hindu, aged about 48 years, residing at Dr.No.7/17, Kamala street, Sivagangai Town, Sivagangai District. the Appellant herein and No.2. A.Nalini, D/o Arunachalam, Hindu aged about 42 years, residing at Dr.No.179-2/23C, Melasathiram, Paramakudi Town, Ramanathapuram District the Respondent herein at present both of us temporarily come down to Madurai do hereby solemnly affirm and sincerely state as follows:-

1. We, No.1 the Appellant and No.2 the Respondent in the CMSA herein are well acquainted with the facts and circumstances of the case.

B.Kumararaja

A.Nalini



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2. We submit that, No.1 of us, the Appellant herein preferred the CMSA 20/2024 before this Hon'ble Court against the judgment and decree dt.18.02.2014 passed in CMA 1/2011 on the file of District Judge, Sivagangai by reversing the judgment and decree dt.14.09.2010 passed in H.M.O.P.No.130/2007 for seeking relief of dissolution of marriage of us on the file of Subordinate Judge, Sivagangai.

3. We, the Appellant and the Respondent submit that we separated with each other for merely 17 years and there is no possibility of reunion. So we both of us consented to dissolve the marriage of us which had been solemnized on 12.04.2006 on our own accord and wish, without any compulsion and coercion or undue influence of others, on the basis of settlement regarding the terms and conditions entered between us as stated below.

4. We submit that out of our lawful wedlock we had no issues. No.1 of us, the Appellant herein agreed to pay maintenance as permanent alimony of Rs.5,00,000/- to No.2 of us on or before 02/09/2024. Further, No.1 of us agreed to hand over the house hold articles and 4 ½ sovereigns gold which are given as Sridhana for our marriage on or before 05/07/2024 to No.2 of us. Further the Respondent/wife No.2 of us assures not to claim any amount as maintenance from No.1 of us except the above said amount is given by him. Further the Respondent/wife No.2 of us assures to withdraw the Maintenance case in M.C.No.2/2020 on the file of Judicial Magistrate, Paramakudi.

Blings

A. Nalini



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5. We respectfully submit that we both of us agreed and consented for obtaining decree of divorce by mutual consent through court of law. We both of us assured not to claim maintenance, permanent alimony, shares in the property against each other. There is no nuptial relationship between each other hereinafter.

It is prayed that this Hon'ble Court may be pleased to grant a decree of divorce by dissolving the Marriage of the Appellant and the Respondent solemnized on 12.04.2006 by recording the terms and conditions of the compromise affidavit as stated above and thus render justice.

Solemnly affirmed at Madurai this
The 20.06.2024 The contents of this
affidavit having been truly and audibly
read over and explained to the deponent
in Tamil who being unacquainted with
English and appears to have understood
the same perfectly and signed his
name in my presence.

APPELLANT

Bleip

RESPONDENT

A. naly

M. A. S.
COUNSEL FOR THE APPELLANT

L. bing
COUNSEL FOR THE RESPONDENT



5. Accordingly, the present Civil Miscellaneous Second appeal is allowed in terms of the Joint Compromise memo. The memo of compromise shall form part and parcel of this Judgment and Decree. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

6. Post the matter on 08.07.2024, for reporting compliance.

13.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
KSA

Note: Issue order copy on 03.07.2024



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To

1. The District Court,
Sivagangai.
2. The Subordinate Court,
Sivagangai.
3. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

**Order made in
C.M.S.A(MD)No.20 of 2014**

19.06.2024