



C.M.A.No.3000 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 10.12.2024

PRONOUNCED : 08.04.2025

ON

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

AND

THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A No.3000 of 2021

Muthu

... Appellant

Vs.

Krishnammal

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act as against the judgment and Decree dated 24.07.2019 made in H.M.O.P.No.142 of 2017 on the file of Family Court, Dharmapuri.

For Appellant : Mr.A.Ilayaperumal

For Respondent : No Appearance
(Notice served)



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J U D G M E N T

(Judgment of the Court was made by **J.NISHA BANU, J.**)

The petitioner/husband preferred a petition against the respondent/wife in H.M.O.P.No.142 of 2017 before the Family Court, Dharmapuri, under Section 13(1)(i-a)(ib) of the Hindu Marriage Act, 1955 seeking to grant a decree of divorce, on the ground of adultery, cruelty and desertion.

2. The case of the appellant/petitioner herein is that the marriage between the parties took place about 25 years ago. The appellant/husband was a coolie and was maintaining the family with the income earned through the said job. His wife also went for a job and it is the specific allegation of the appellant that his wife, under the guise of working, refused to perform daily chores in the house and also failed to prepare proper food for the appellant.

3. It is the further allegation of the appellant that the respondent/wife developed illicit relationship with one Raja and often threatened him that she will commit suicide. Even though Panchayat was conducted to settle the dispute between the appellant and the respondent, the same was not fruitful. After two years from the date of marriage, the respondent/wife left the



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matrimonial home. Thereafter, the appellant came to know that the respondent has given birth to a male child. After which, the appellant performed his second marriage with one Chinnathai and out of the said relationship, he got one male and one female child. After 20 years, the said Chinnathai passed away. From then, the appellant and the respondent are living separately for the past 29 years. Hence, the appellant filed a petition for divorce on the ground of adultery, cruelty and desertion.

4. However, the respondent/wife denied the allegations made by the petitioner/husband and the trial Court, after examining one witness on the side of the petitioner P.W.1 and examining two exhibits Ex.P.1 & Ex.P.2 and three witnesses on the side of the respondent/wife, R.W.1 to R.W.3 and examining 6 exhibits, Ex.R.1 to Ex.R.6, observed that the appellant/husband failed to prove the essential conditions like factum of separation, animus deserendi, absence of consent and absence of conduct giving reasonable cause to desert spouse to leave the matrimonial home and accordingly, dismissed the petition filed by the appellant/husband. Aggrieved against the said order, the appellant preferred the present appeal before this Court.

5. Even though notice was served upon the respondent, when the matter is called, there is no appearance on the side of the respondent/wife. This Court heard the learned counsel for the appellant and perused the materials placed before this Court.



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6. Earlier, when the matter came up for hearing on 08.12.2023, this Court has passed the following order:-

“ The learned counsel for the appellant has produced the memorandum of compromise signed by himself, his counsel and the respondent.

2. Despite service of notice, the respondent is not appearing either in person or through counsel duly instructed. We also find that a compromise has been entered into before the Family Court, Dharmapuri in MC.No.9 of 2015, wherein she had appeared before the Family Court and accepted the fact that the husband has settled an extent of 56 cents of land in favour of the respondent and her son. The terms of compromise that was filed before the Family Court have also been produced and they are similar to the ones in the memorandum of compromise that was produced before us.

3. Hence, we direct the Registry to issue notice to the respondent indicating that such a compromise has been filed before us and if she does not appear before this Court on 04.01.2024 either in person or through counsel duly instructed to either affirm or deny the compromise. This Court will be constrained to record the compromise. Such notice shall also be accompanied by the copy of this order.

4. Post on 04.01.2024. ”

7. Thereafter, the case was again listed on 18.01.2024 and this Court passed the following order:-

“Mr.R.Rajesh Krishnan, learned counsel for appellant submits that notice has been ordered to the respondent. Registry to verify and put up a note regarding



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notice to respondent. List three weeks hence. List on 15.02.2024.”

8. The Joint Compromise Memo entered between the appellant/husband and the respondent/wife in Crl.M.P.No.177 of 2017 in F.C.M.C.No.9 of 2015, before the Court below, is extracted for easy reference:-

“ (A)The petitioner has agreed to withdraw the Crl.M.P.No.177 of 2017 in M.C.No.9 of 2015 pending on the file of this Hon'ble Court, which was filed for claiming for arrears of maintenance from the respondent.

(B) The petitioner agrees and assures that she will not claiming any arrears of maintenance and also she will not claim the monthly maintenance amount pursuant to the Exparte Judgment dated 25.05.2015 in M.C.No.9 of 2015 on the file of this Hon'ble Court in future.

(C) The respondent agrees and assures that he will bequeath the schedule mentioned property to the petitioner as a full and final settlement by executing the appropriate deeds as required by the petitioner and the petitioner agrees to borne the cost of execution of the schedule mentioned property.

(D) The petitioner agrees and assures that she will not claim anything from the respondent including maintenance in the future or alimony or permanent alimony or any other monetary demand since, the



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petitioner has satisfied with the settlement of schedule mentioned property.

(E) The petitioner is agreed to give consent of divorce to the respondent in the C.M.A.No.3000 of 2021, pending on the file of the Hon'ble High Court of Madras and the petitioner is agreed to pass consent divorce by the Hon'ble High Court of Madras.

(F) The petitioner and respondent have agreed and assures that they will withdraw all complaints which are given to police and also various authorities against each others and their respective family members.

(G) The petitioner agrees that she will not file any complaints, claims in future against the respondent, and his family members in any court of law, or before police authority, for grant of maintenance or any other claims or file any cases against the responden and his family members hereinafter or in future.

(H) The respondent agrees that he will not fille any complaint or claims in future against the respondent and her family members in any Court of Law or before Police Authority, for compensation or any other claims or file any cases against the petitioner and her family members hereinafter or in future.

(I) The respondent assures and agrees that he will not proceed further in S.T.C.No.9 of 2019, filed by the respondent's 2nd wife, pending before the Special Magistrate, Dhramapuri,

(J) The petitioner hereby agrees and assures that she will not claim maintenance or alimony against the respondent or from his family members hereafter or in



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future also, and waives her future claim or maintenance in any form. Further, the petitioner will not demand or share over the other properties of the respondent and she assures and undertook that she will not attach any of the properties of the respondent in future by

claiming any maintenance or alimony hereinafter on in future.

(K) The respondent hereby agrees and assures that he will not claim maintenance or alimony against the petitioner or from his family members hereafter or in future also, and waives his future claim.

(L) The petitioner and the respondent have no any other claim against each other including exchange of any household articles and etc.,

(M) The petitioner and respondent are agreed that they will not be interfere with each other future life in any event".

9. Despite of the steps taken by the Registry to make the respondent/wife aware of the appeal proceedings, none appeared on behalf of the respondent/wife before this Court. At this juncture, it is also essential to look into the order passed in Cr.M.P.No.177 of 2017 in M.C.No.09 of 2015 filed by the respondent/wife against the appellant/husband before the Family Court, Dharmapuri under Section 125(3) of Criminal Procedure Code, seeking for collection of arrears of maintenance amount of Rs.48,000/- for the period from August 2016 to July 2017 from the appellant, which is extracted for ready reference hereunder:-

"Both parties present. Already petitioner counsel



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filed compromise petition and which was returned for certain defects and it is represented today after compliance by petitioner and the contents of memo read over and explained to her in Tamil and she accepted the contents of memo and her signature in that memo and she has also filed memo to that effect stating that she has not pressed this Cr.MP since her husband/Respondent has settled 26 cents in her name and 30 cents of land in her sons name. (Xerox copy of sale deed enclosed with memo) memo is recorded and this Cr.MP is closed accordingly”.

10. In view of the developments that have taken place in the present civil miscellaneous appeal, this Court is of the considered opinion that it will not serve any useful purpose in keeping the same pending for the following reasons:-

- (i) Since already the appellant as well as the respondent have entered into a joint compromise in the year 2021 itself;
- (ii) A sale deed in Document No.5975 of 2021 has been executed by the appellant/husband in favour of the respondent/wife, as agreed in the aforesaid Joint Compromise Memo;
- (iii) Taking into consideration the order passed in CrI.M.P.No.177 of 2017 in F.C.M.C.No.9 of 2015, whereby the respondent/wife herself has accepted the contents of the



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joint compromise memo and also endorsed the same with her signature in that memo;

(iv) Further in the aforesaid memo, it has been stated that she would not press the maintenance petition, since the appellant has settled 26 cents of land in her name and 30 cents of land in her son's name.

11. Time and again, the Hon'ble Supreme Court as well as this Court have repeatedly held that the cases arising out of matrimonial differences should be put to a quietus if the parties have reached an amicable settlement. Therefore, in view of the above facts and circumstances of the case, this Court is inclined to allow the Civil Miscellaneous Appeal in terms of the joint compromise memo entered between the parties.

12. Accordingly, the Civil Miscellaneous Appeal stands Allowed. No costs.

[J.N.B., J.]

[R.S.V., J.]

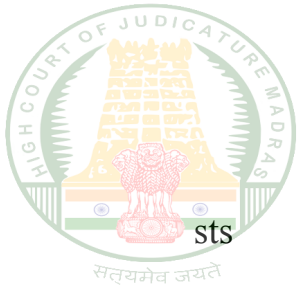
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Index : Yes / No

Neutral Citation : Yes / No

Speaking Order : Yes / No

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To:
The Family Court,
Dharmapuri.

J.NISHA BANU, J.

AND

R.SAKTHIVEL, J.

sts

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