

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6670 OF 2014
(Arising out of SLP (C) No. 5929/2013)

EBEN JAYANTH

APPELLANT

VERSUS

A.ABITHA

RESPONDENT

O R D E R

Leave granted.

This appeal has been preferred by the appellant(husband) against the judgment dated 3rd December, 2012 passed by the Madurai Bench of Madras High Court in C.R.P. (NPD)(MD) No.1551 of 2011. By the impugned judgment the High Court set aside the order passed in Interlocutory Application as well as the ex-parte decree of nullity passed in I.D.O.P. No. 277 of 2001 by the lower court and remitted back the matter to the lower court to decide the matter as per law.

Taking into consideration the fact that there is a dispute between the appellant-Eben Jayant(husband) and respondent-A.Abitha (wife) and on the request of the learned counsel, the parties were heard in person. On 15th July, 2014 the parties informed that they intend to settle the dispute amicably and will file the joint memorandum on the next date of hearing.

Signature Not Verified

Digitally signed by
Rajni Mukhi
Date: 2014.07.30
15:20:45 IST
Reason:

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Pursuant to the aforesaid submission made before the Court, the joint memorandum of settlement between the parties has been filed. The relevant portion of which reads as follows:

".....
I That vide this Memorandum of Settlement dated 15.07.2014, the petitioner and respondent have settled all their disputes and claims fully and finally towards maintenance, permanent alimony, stridhan articles and all the past, present and future claims. It has been agreed that no claim of any nature now remains against each other between the parties on the following terms:-
i. That the Parties agreed to file a joint Petition for Divorce by way of Mutual Consent under Section 10A of the Indian Divorce Act, 1955.
ii. That the Petitioner herein being the Husband agreed to pay a permanent alimony of Rs. 30,00,000/- (Rupees

Thirty Lakhs only) as full and final settlement and there will not be any other future claim beside the aforesaid amount. The said amount would be paid in two installments. 1st installment of Rs. 15,00,000/- (Rupees Fifteen Lakhs only) would be paid at the time of filing the 1st motion for divorce by way of mutual consent i.e. on or before 30.10.2014.

- iii. That the Petitioner further agrees to pay the balance amount of Rs. 15,00,000/- (Rupees Fifteen Lakhs only) while moving the 2nd motion in the Divorce Petition which is being filed while accepting the initial amount and the 2nd and the final installment of Rs. 15,00,000/- (Rupees Fifteen Lakhs only) would be paid on or before 30.04.2015 and there shall be no further claim beside the above said amount which is paid in two installments together amounting Rs. 30,00,000/-.
6. That both the parties have filed this petition jointly for obtaining divorce by mutual consent.

7. That the parties hereby agree and undertake that after obtaining divorce, either of the parties will not interfere with each other's life or in their social circle on any issue relating to past, present and future life and/or any issue which arises subsequent thereto. All the cases filed by the parties against each other may kindly be treated as withdrawn and no further litigation would be initiated between the parties. The parties also undertake not to litigate on any issues which is brought or not brought before this Hon'ble Court till this date. The details of cases which are as follows:

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Cases filed by Respondent (Wife)

1. The Respondent filed Petition for Restitution of Conjugal Right on 20.12.2007 before the Family Court at Chennai being F.C.O.P. No. 1539 of 2008.
2. The Respondent filed Petition U/s 125 Cr. P.C. being M.C. No. 308 of 2009 for maintenance which is pending before 3 rd Additional Family Court in Chennai.

Cases filed by the Petitioner (Husband)

1. The Petitioner filed I.D.O.P No. 277 of 2001 under Section 18 of the Indian Divorce Act, praying for Decree of nullity of marriage before the Principal District Court, Nagercoil.

That after the compliance of the conditions stipulated above the Principal District Court, Nagercoil shall pass decree of divorce in terms of the above agreement. Subsequent to the same the parties are bound to withdraw the above cases and/or any other cases that may be pending between the parties. Failing which the cases which have not been withdrawn may be quashed by the competent court or at the instance of this Hon'ble Court.

8. That the present petition is not presented in collusion but only to save the future of the Parties to the present case from any complications and hardships, which are bound to arise if the parties are not granted divorce and their marriage is not dissolved. Further the parties have resolved all their disputes with this settlement and agree not to interfere with each other life in future."

In view of the settlement reached between the parties, no interference is called for against the impugned judgment. The parties shall abide by the terms and conditions of the settlement agreement and act in terms of the same. The permanent alimony total amount of Rs.30,00,000/- (Rupees Thirty Lakhs only) be paid by the appellant (husband) in favour of the

respondent (wife) and be deposited in the Court as per settlement. The Court will allow the respondent-wife to withdraw the amount immediately. Divorce by mutual consent under Section 10A of the Indian Divorce Act be also filed within time frame shown in the Memorandum of Settlement.

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The appeal stands disposed of in terms of the settlement reached between the parties.

.....J.
[SUDHANSU JYOTI MUKHOPADHAYA]

.....J.
[S.A.BOBDE]

NEW DELHI;
JULY 22, 2014

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ITEM NO.2

COURT NO.5

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 5929 OF 2014
(Arising out of judgment and final order dated 03.12.2012
passed by the Madurai Bench of Madras High Court in C.R.P.(NPD)
(MD) No. 1551 of 2011)

EBEN JAYANTH

Petitioner

VERSUS

A.ABITHA

Respondent

(with appln. (s) for permission to place addl. documents on
record and interim relief and office report)

Date : 22/07/2014 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE S.A. BOBDE

For Appellant(s) Mr. S. Gowthaman ,Adv.
Mr. C.K.R. Lenin Sekar, Adv.
Mr. S. Sethu Mahendran, Adv.
Mr. Paari Vendhan, Adv.

For Respondent(s) Mr. V. Balaji, Adv.
Mr. Atul Sharma, Adv.
Mr. Rakesh K. Sharma ,Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.
The appeal stands disposed of in terms of the Signed

Order.

[RAJNI MUKHI]
SR. P.A.

[USHA SHARMA]
COURT MASTER

(Signed Order is placed on the file)