

HON'BLE SRI JUSTICE R. SUBHASH REDDY

AND

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

F.C.A.No.130 of 2015

JUDGMENT : (per Hon'ble Sri Justice R.Subhash Reddy)

This appeal, under Section 19 of the Family Courts Act, 1984 is filed by appellant Nos.1 and 2, who are wife and husband, respectively, aggrieved by the order and decree dated 31.10.2014 in O.P.No.176 of 2014 passed by the Family Court-cum-IV Additional District and Sessions Judge, Vijayawada, Krishna District, dismissing the petition filed by them under Section 13-B of the Hindu Marriage Act, 1955 (for brevity "the Act") seeking dissolution of their marriage dated 17.8.2006 by mutual consent.

2. The aforesaid O.P. was filed by both the appellants under Section 13-B of the Act seeking dissolution of their marriage dated 17.8.2006 by mutual consent with an agreement that the 2nd appellant/husband would provide a total sum of Rs.2,00,000/- to the 1st appellant/wife towards full and final settlement of all her claims arising out of their marriage, out of which, the 2nd appellant/husband would pay a sum of Rs.1,00,000/- on the date of filing of the O.P. before the Court below and remaining amount of Rs.1,00,000/- will be paid on the date of granting of decree of divorce by mutual consent by the Court below. However, the Court below dismissed the O.P. through the impugned order dated 31.10.2014 on the ground that when both the parties were present, the 1st appellant/wife refused for divorce as the 2nd appellant/husband has not paid the remaining amount of Rs.1,00,000/- as agreed earlier. Hence, the present appeal.

3. When the matter is called, both the parties are present before this Court along with their advocate, who identified the respective parties, and requested to dispose of the appeal on merits in view of the consent of both the parties. The 1st appellant/wife also agreed to have received the remaining amount of Rs.1,00,000/- by way of cash today from the 2nd appellant/husband towards full and final settlement of all the claims.

4. Further, in view of the expression of this Court in K.OMPRAKASH V. K.NALINI, as the decree of divorce by mutual consent is obtained at the appellate stage, the timeframe stipulated under Section 13-B(2) will not apply.

5. In view of consent of both the parties, this appeal is disposed of. Consequently, O.P.No.176 of 2014 stands allowed, by granting a decree of divorce, dissolving the marriage between both the parties by mutual consent. As a sequel, miscellaneous petitions pending, if any, in this appeal shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

Dr. JUSTICE B.SIVA SANKARA RAO

01.05.2015.

Msr

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