

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2015

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU

Second Appeal No.848 of 2015

Nataraj

..Appellant/Defendant

Vs.

Ramanatham

..Respondent/Plaintiff

Appeal under Section 100 of the Code of Civil Procedure, against the judgment and decree dated 21.01.2015 made in A.S.No.17 of 2010 on the file of the Subordinate Judge, Pollachi, confirming the judgment and decree dated 15.02.2006 made in O.S.No.138 of 2002 on the file of the District Munsif Court, Pollachi.

For Appellant : Mr.C.Veeraraghavan

J U D G M E N T

The appellant is the defendant in O.S.No.138 of 2002 on the file of the learned District Munsif, Pollachi. The respondent is the plaintiff in the suit. The said suit was filed for a decree for maintenance at the rate of Rs.1,500/- per month and for Rs.1,000/- per year towards the expenditure for dress and other amenities. By decree and judgment dated 15.02.2006, the learned District Munsif decreed the suit as prayed for. As against the same, the appellant filed an appeal in A.S.No.17 of 2010, before the learned Subordinate Judge, Pollachi. By decree and judgment dated 21.01.2015, the lower Appellate Court dismissed the appeal, thereby confirming the decree and judgment of the trial Court. Challenging the same, the appellant is before this Court in this second appeal.

2. This second appeal came up for admission today. I have heard the learned counsel for the appellant and perused the records carefully.

3. The case of the plaintiff is that she married the defendant on 02.6.1988. After sometime of the marriage, the

defendant harassed her and sent her back. He failed to maintain her also, though he has got 10 acres of coconut grove, from which he was earning Rs.25,000/- per month as income. According to the plaintiff, she had no source of income to maintain herself.

4. The defendant contested the suit on the ground that the plaintiff deserted him on her own and he never declined to maintain her by keeping her in the matrimonial home. It is also submitted that the defendant did not have so much of income as alleged by the plaintiff. It was also contended that the plaintiff was doing finance business, from out of which, she has income to maintain herself.

5. Based on the above pleadings, the trial Court framed appropriate issues. On the side of the plaintiff, two witnesses were examined and three documents were exhibited. On the side of the defendant, four witnesses were examined and two documents were exhibited. Having considered all the above, the trial Court decreed the suit, which was confirmed by the lower Appellate Court. Therefore, the appellant is before this Court with this appeal.

6. In this second appeal, the learned counsel for the appellant would submit that the Court below has grossly erred in not appreciating the oral as well as documentary evidence by which the defendant has proved that the plaintiff had deserted him and therefore, she is not entitled for maintenance. The learned counsel further submits that the Court below have grossly erred in fixing the higher amount towards maintenance.

7. I have considered the above submission.

8. In my considered opinion, there is no question of law much less a substantial question of law involved in this second appeal. On appreciating both oral and documentary evidence, both the Courts below have come to the concurrent finding that the defendant had neglected the plaintiff and refused to maintain her. This being a factual finding, this Court cannot interfere with the findings of the Court below, as there is no perversity in the findings. So far as the income of the plaintiff as well as that of the defendant, the Courts below have found the same against the defendant. In the said conclusion also, I do not find any perversity. The judgment of the trial Court, confirmed by the Appellate Court, is a well merited judgment which requires no interference. As I have already pointed out, there is no substantial question of law involved in this second appeal and therefore, it is not possible for this Court to admit the second appeal.

In the result, the second appeal fails and the same is accordingly dismissed. Consequently, M.P.No.1 of 2015 is also dismissed. The decree and judgment of the trial Court and confirmed by the Appellate Court is hereby confirmed.

Sd/
ASSISTANT REGISTRAR (CS-III)

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SUB-ASSISTANT REGISTRAR

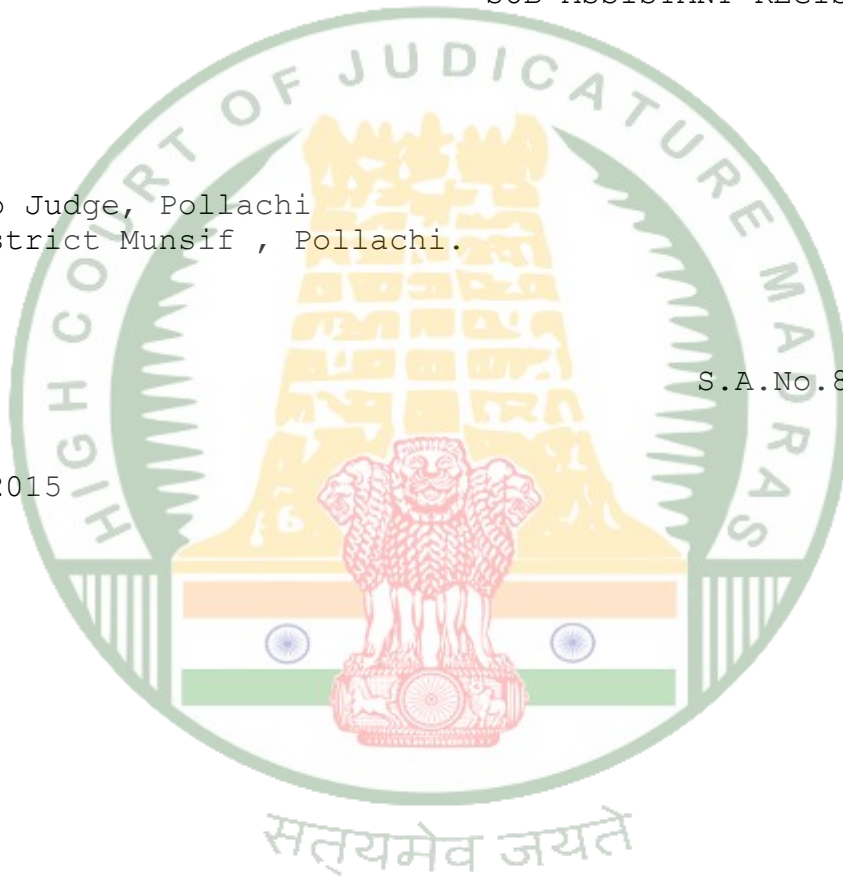
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To

1. The Sub Judge, Pollachi
2. The District Munsif , Pollachi.

S.A.No.848 of 2015.

CO-PUR
JD 22/12/2015



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