

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:- 30.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2314 of 2013

S.John Joseph

... Appellant/Petitioner

Versus

Tmt.Albert Helen Mary

...Respondent/ Respondent

Prayer: Civil Miscellaneous Appeal filed under section 55 of Divorce Act 1984 against the judgment and decree in Divorce O.P.No.103 of 2009 dated 01.04.2013 passed by the learned Principal District Judge, Villupuram.

For Appellant :: Mr.M.V.Muralidaran

For Respondent :: Mr.G.Ashok Kumar

J U D G M E N T

This appeal is filed against the judgment and decree dated 01.04.2013 made in Divorce OP No.103 of 2009 on the file of the Principal District Judge, Villupuram in and by which the learned trial court dismissed the petition for divorce filed by the petitioner /appellant under section 10(vii) & (ix) of the Divorce Act to dissolve the marriage between the petitioner and the respondent which was solemnized on 17.06.2005 on the grounds of non consummation of marriage and desertion.

2.Learned counsel appearing for the appellant would submit that both the appellant and the respondent got married as per Christian rites and customs at a church in Mugaiyur village on 17.06.2005. After the marriage, the respondent lived with the petitioner for a period of 3 months and subsequently, she quit the matrimonial home from October, 2005 that shows that they lived together only for a period of three months and since the wife insisted for separate living, a distraint relationship was developed between them. Therefore, the respondent left the matrimonial home in the month of October 2005 and she did not come back thereafter. It is the claim of the husband/appellant herein that both of them lived together only for three months which shows that there was non consummation and desertion and therefore, the appeal may be allowed.

3.Since the appellant is aged 45 years and the respondent is aged 37 years and in view of the long separation, the wife has filed an affidavit dated 30.11.2015 giving no objection for dissolution of their marriage as she is also going to get married since the appellant had deserted her once and for all. The appellant husband has also no objection for the same, as he is also likely to get married.

4.In view of the above, recording the affidavit dated 30.11.2015 filed by the respondent/wife Tmt.Albert Helen Mary, signed both by the respondent and her counsel giving no objection to allow the appeal on the ground of non consummation of marriage or desertion, the civil miscellaneous appeal stands allowed and the marriage took place between the appellant and the respondent on 17.06.2005 is hereby dissolved in view of the consent given by the respondent. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

vri

To

1. The Principal District Judge,
Villipuram.

2. The Section Officer
VR Section,
High Court, Madras

1 cc to Mr.M.V. Muralidharan, Advocate, Sr. 65377

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TEJ (CO)
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