

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2016

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Second Appeal No.826 of 2016
and
C.M.P.No.15860 of 2016

P.Vadivel ... Appellant/Defendant

Vs.

1. Poongodi
W/o P.Vadivel

2. Minor.Dhivyadharshini,
D/o Vadivel,
represented by her mother/next friend/
Guardian,
Poongodi.

Both are residing at
Nochipatty, Valapady Taluk,
Salem District.

... Respondents/Plaintiffs

Appeal filed under Section 100 of Civil Procedure Code against the judgment and decree dated 17.08.2015 made in A.S.No.74 of 2012 on the file of the III Additional District Judge, Salem, confirming the judgment and decree dated 26.04.2012 made in O.S.No.332 of 2009 on the file of II Additional Subordinate Judge, Salem.

For Appellant : Mr.L.Mouli

J U D G M E N T
सत्यमेव जयते

The appellant is the defendant in a suit filed by the respondents herein for maintenance. The first respondent is the wife and the second respondent is the minor daughter of the appellant herein.

2. The case of the plaintiffs is that the appellant has driven away them from the matrimonial home on the ill advice of his parents and that the 1st plaintiff is unable to maintain herself and the minor child. Therefore, the respondents herein as the plaintiffs filed the suit seeking for maintenance directing the defendant to pay a sum of Rs.5000/- per month to the first plaintiff and Rs.4,000/- per month to the second plaintiff.

3. The appellant herein as the defendant contested the said suit.

4. The trial Court, on careful consideration of the respective pleadings of the parties and the evidence let in by them, granted a decree of maintenance of Rs.5000/- per month to the 1st plaintiff and Rs.4,000/- per month to the 2nd plaintiff and also created a charge over the second item of the suit property for such payment. For arriving at such conclusion, the trial Court found that the amount required by the plaintiffs towards maintenance is a reasonable amount, taking into consideration of the standard of living in the present set of life. The trial Court has also pointed out that the defendant, in order to escape from paying the maintenance settled the second item of suit property in favour of his mother.

5. Challenging the said finding, the defendant filed an appeal before the First Appellate Court, which, after considering the case of the respective parties in detail, dismissed the appeal. Challenging the concurrent findings rendered by the Courts below the present Second Appeal is before this Court.

6. Heard the learned counsel for the appellant and perused the materials placed before this Court.

7. It is seen that there is no dispute to the fact that the appellant is the husband of the first respondent, and the father of the second respondent. It is also seen that the appellant and the respondents are living separately. The categorical finding of the courts below is that the appellant caused cruelty to the 1st respondent wife, both mentally and physically and deserted her. The Courts below, on appreciation of facts and circumstances, the pleadings of the respective parties and the evidence let in by them, found that the respondents are not having any independent source of income to maintain themselves. Such conclusion arrived by the courts below appears to be just and proper and do not require any interference by this Court, as this Court also do not find any substantial question of law arising for consideration in favour of the appellant even to entertain the Second Appeal. Accordingly, the Second Appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsi

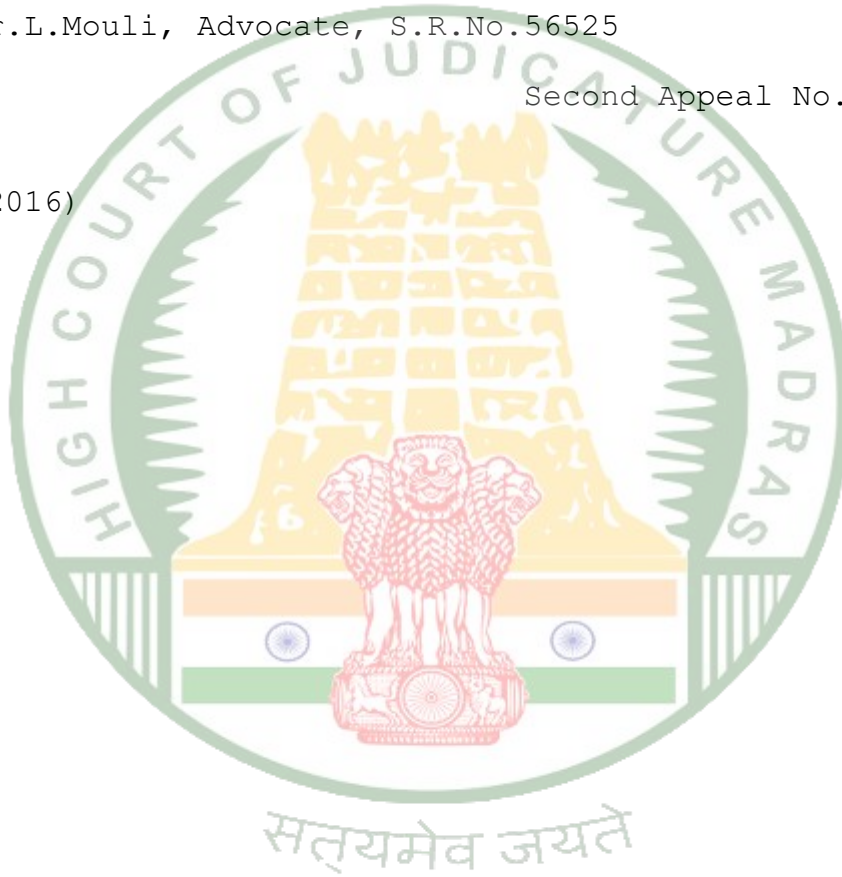
To

1. The III Additional District Judge,
Salem.
2. The II Additional Subordinate Judge,
Salem.

+lcc to Mr.L.Mouli, Advocate, S.R.No.56525

Second Appeal No.826 of 2016

KJI (CO)
CA(12/11/2016)



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