

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE M.S.RAMESH

C.M.A.No.1174 of 2017
and
C.M.P.No.5893 of 2017

M.Srinivasan Appellant/Petitioner

Vs.

M.Maheswari Respondent/Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Section 19 of the Family Courts Act, 1984, against the judgment and decree dated 22.09.2016 in F.C.O.P.No.596 of 2015 on the file of the Family Court, Salem.

For Appellant : Mr.T.Balaji
For Respondent : No appearance

JUDGMENT

(Judgment of the Court was delivered by R.Subbiah, J.)

The appeal has been filed by the appellant/husband as against the judgment and decree dated 22.09.2016 in F.C.O.P.No.596 of 2015 passed by the Family Court, Salem, dismissing the claim of the appellant for decree of divorce under Section 13(1)(i-a) & (i-b) of Hindu Marriage Act, 1955 and granting alternate relief of judicial separation under Section 13(1)(A) of the Hindu Marriage Act.

2.The learned counsel for the appellant submitted that the marriage between the appellant and the respondent was solemnized as per Hindu religious customs and rites, on 12.03.2012 at Attayampatti, Velanatham Arulmigu Subramaniyar Thirukovil, Salem. After the marriage, they lived together only for a period of 1 year and thereafter, there was a misunderstanding between them. According to the appellant, the respondent used to threat him for no reason and treated him cruelly. She used to abuse him in filthy language. Moreover, the respondent left the matrimonial home and went to her parents' house during January,

2013 and since then, she is living in her parents' house. Hence, the appellant herein filed the petition for divorce on the ground of mental cruelty and desertion. But, the Court below has dismissed the claim of the appellant and granted judicial separation. Aggrieved over the same, the present appeal has been filed by the appellant.

3.Though notice was served on the respondent, there is no representation for the respondent.

4.Heard the learned counsel for the appellant and perused the materials available on record.

5.Considering the facts and circumstances and the submissions made by the learned counsel for the appellant, this Court remand the matter to the Court below, setting aside the impugned judgment and decree, with a direction to the Court below to dispose of the OP on merits on the grounds raised by the appellant, by giving notice to the respondent, within a period of three months from the date of receipt of a copy of this order.

With the above terms, the Civil Miscellaneous Appeal is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Judge,
Family Court, Salem.

+1cc to Mr.A.Thiyagarajan, Advocate Sr. 40541

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GJII (CO)
VR(22/06/2017)