

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.11.2017

Coram :

The Honourable Mr. Justice C.T. SELVAM
and
The Honourable Mr. Justice M.V. MURALIDARAN

C.M.A.No. 1548 of 2014

S. Nagalakshmi
D/o. Sethuraman

...Appellant/Petitioner

Versus

Mr. K. Anand Babu
S/o. M. V. Kothandaraman

...Respondent/Respondent

This Civil Miscellaneous Appeal is filed under Section 19(1) of the Family Courts Act, 1984 praying to set aside the fair and final order dated 28.02.2014, made in H.M.O.P.No.655 of 2012, on the file of the learned Judge, Family Court, Coimbatore.

For Appellant : Mr. N. Anand Venkatesh
For Rspondent : Mr. M. Munusamy

J U D G M E N T

(Judgment of the Court was delivered by C. T. SELVAM, J.,)

This Civil Miscellaneous Appeal is filed against the fair and final order dated 28.02.2014 made in H.M.O.P.No.655 of 2012 on the file of the learned Judge, Family Court, Coimbatore.

2. The appellant preferred H.M.O.P.No.655 of 2012 on the file of the learned Judge, Family Court, Coimbatore, seeking dissolution of the marriage entered upon with the respondent on 12.07.2000 alleging that respondent had deserted the appellant. Court below under Judgment dated 28.02.2014, dismissed the petition and hence, this appeal.

3. Heard learned counsel for appellant and learned counsel for respondent.

4. Learned counsel for appellant referred to Ex.P.2 and submitted that right from the day of marriage, the parties i.e., appellant and respondent have never been together. Their marriage has not been consummated. Ex.P.3, Notice dated 21.08.2007, caused by respondent to appellant interalia informed

that such position arose owing to appellant/wife failing to inform the fact of their marriage to her parents. Learned Counsel further submitted that in admitted circumstances, where, there had been no consummation of marriage and the parties are living separately over a period of 17 years, the marriage has irretrievably broken down.

5. Learned counsel for respondent submitted that appellant/wife had approached the Court with a false claim of the respondent/husband having deserted her. Though 17 years have passed, the respondent looks forward to a marital relationship with appellant even now. Learned counsel for respondent does not contend that the parties have ever lived together or that the marriage has been consummated.

6. On consideration of the rival submissions and the facts and circumstances, this Court would hold that the marriage between the parties has irretrievably broken down. Accordingly, this Civil Miscellaneous Appeal is allowed and the fair and final order passed by the learned Judge, Family Court, Coimbatore in H.M.O.P.No.655 of 2012 dated 28.02.2014 is set aside. There shall be a decree of dissolution of marriage dated 12.07.2000 entered upon between the appellant and respondent. No costs.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

mrr

To

1. The Judge,
Family Court, Coimbatore.

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

+1cc to Mr.N.Anand Venkatesh, Advocate SR.No.82806

C.M.A.No.1548 of 2014

GMR(CO)
GN(12/01/2018)