

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2017

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(NPD) NO.3350 OF 2017

Vijaya Baskar

... Petitioner

Vs.

Kalyana Soundari

... Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the order and decretal order dated 18.07.2017 made in I.A.No.108 of 2014 in H.M.O.P.No.198 of 2014 on the file of the Family Court at Tiruvallur.

For Petitioner : Mr.M.Balasubramanian

ORDER

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This Civil Revision Petition is directed against the order allowing the application for rejection of plaint.

petitioner / husband has filed a petition for dissolution of marriage on the grounds of desertion. The respondent / wife has filed a petition under Order VII Rule 11 read with Sections 141 and 151 of the Civil Procedure Code for rejection of plaint. The Trial Court has entertained the petition and decided the matter on the basis of the averments extraneous to the petition.

3. It is well settled that for rejection of plaint under Order VII Rule 11 of the Civil Procedure Code, the averments made in the plaint alone are germane. Whereas, in this case, the Trial Court has referred to various other materials, which are extraneous to the petition filed by the revision petitioner / husband. Since the revision petitioner / husband has made out a case in his petition and shows some cause of action, which is not barred by law, the same is maintainable and it cannot be rejected on the basis of the averments made by the respondent / wife. Furthermore, the matter relates to matrimonial dispute. Even though it is the second round of litigation, the Court shall refer the same for resolution through mediation or any other alternative dispute resolution method. The order passed by the Judge, Family Court, Tiruvallur does not fall within the purview of Order VII Rule 11 of the Civil Procedure Code and the same is in contrary to the well settled principles of law.

4. In view of the same, the order dated 18.07.2017 passed in I.A.No.108 of 2014 in H.M.O.P.No.198 of 2014 by the Family Court, Tiruvallur, is set aside. The Family Court, Tiruvallur is directed to dispose of the petition on merits and after referring the same for mediation. This exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

5. The Civil Revision Petition is disposed of accordingly. No costs.

22.09.2017

Index : Yes/No

Internet : Yes/No

TK

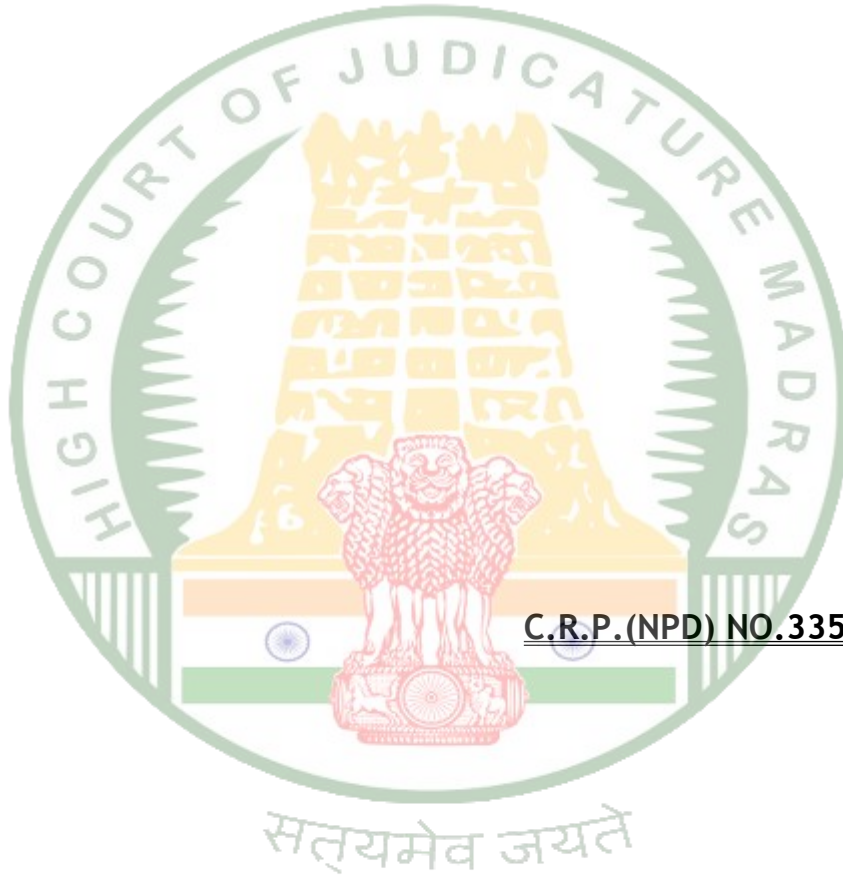
To

The Family Court
Tiruvallur.

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M.GOVINDARAJ, J.

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