

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 26-10-2017

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.S.A.No.35 OF 2010

M.S.S.Arutperumjothi

...

Appellant

-VS-

Mr.A.Pandian

...

Respondent

Appeal against the judgment, dated 29.09.2010, made in C.M.A.No.1 of 2010 on the file of Principal District Judge, Dharmapuri.

For appellant : Mr.Murali Padmanabhan

For respondent : Mr.D.Venkatachalam

JUDGMENT

सत्यमेव जयते

Aggrieved over the concurrent findings of the Courts below, appellant/wife has preferred this Civil Miscellaneous Second Appeal.

2. Appellant had filed a petition for divorce in the year 2005. Considering the counter statement of the husband as well as the evidence adduced by both the parties, the Subordinate Court, Dharmapuri, dismissed the petition for divorce on

18.09.2009, holding that the mental cruelty was not made out. Further, the trial Court held that the allegation of desertion was also not proved. The findings of the trial Court were confirmed in appeal by the Principal District Judge, Dharmapuri, on 29.09.2010, holding that the grounds of cruelty and desertion were not clearly established to interfere with the judgment of the trial Court. Aggrieved over the same, appellant/wife is before this Court, as stated above.

3. Today, when the matter is taken up for final hearing, respondent/husband would submit that the chance of reunion of the parties is ruled out, as the appellant has already contracted marriage with another person and begotten two female children. An affidavit to that effect has also been filed.

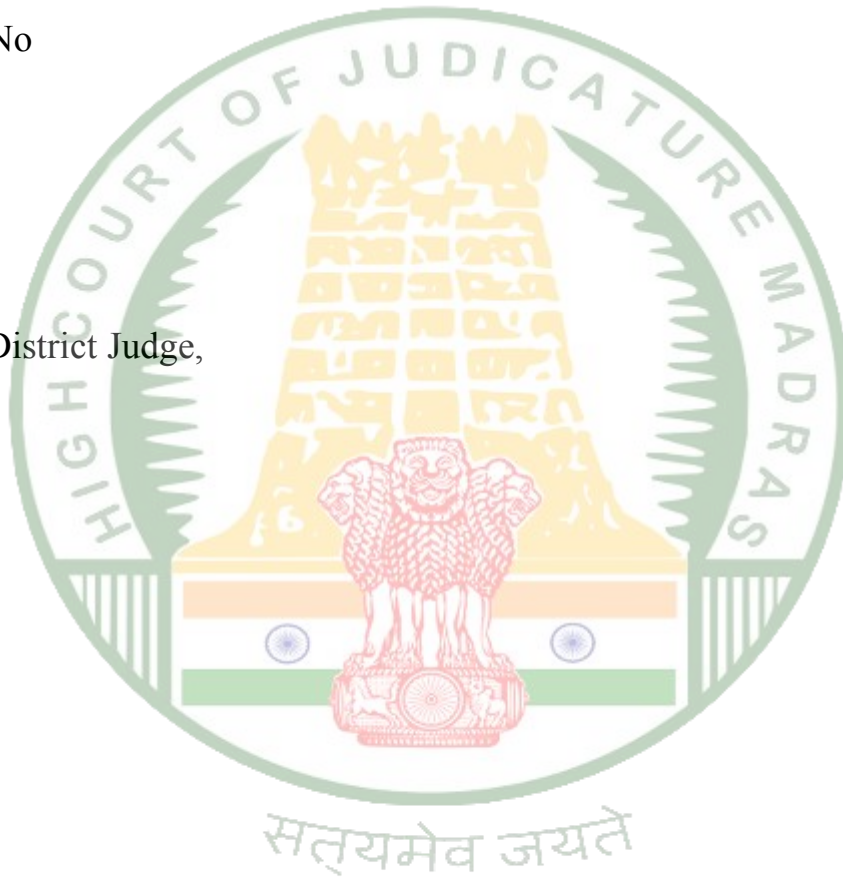
4. Considering the circumstances, respondent has filed an affidavit, to the effect that he is conceding to the claim of the appellant and that the appeal may be allowed. Following the subsequent developments and finding no useful purpose in adopting the conciliatory efforts through alternate dispute resolution methods, this Court is inclined to allow the appeal and grant divorce in favour of the appellant/wife. Accordingly, the orders passed by the Courts below in H.M.O.P.No.88 of 2005 on the file of Subordinate Court, Dharmapuri, and C.M.A.No.1 of 2010 on the file of Principal District Court, Dharmapuri, are set aside and the marriage solemnised between the appellant and the respondent is dissolved, by granting a decree of divorce.

5. In the result, this Civil Miscellaneous Second Appeal is allowed. No order as to costs. Affidavit, dated 26.10.2017, filed by the respondent/husband shall form part of the decree.

Index : Yes/No
Internet : Yes/No
dixit

26-10-2017

To
The Principal District Judge,
Dharmapuri.



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M.GOVINDARAJ,J.

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