

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.02.2017
CORAM
THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
C.M.A.No.3140 of 2006
and M.P.No.1 of 2006

Sarangapani

... Appellant

vs.

Mallika

... Respondent

Civil Miscellaneous Appeal has been filed against the order dated 13.9.2006 made in I.A.No.157 of 2002 in H.M.O.P.No.18 of 1996 on the file of the learned Principal Subordinate Judge, Cuddalore.

For appellant : Mr.R.Sunil Kumar

For respondent : Not ready in notice.

JUDGMENT

(The judgment of the Court was delivered by
R.SUBRAMANIAN, J)

The present civil miscellaneous appeal has been filed by the appellant / husband as against the order dated 13.9.2006 made in I.A.No.157 of 2002 in H.M.O.P.No.18 of 1996 on the file of the learned Principal Subordinate Judge, Cuddalore.

2. The petition in H.M.O.P.No.18 of 1996 was filed by the appellant / husband as against the respondent / wife seeking divorce and an exparte decree was passed on 28.2.1997 granting divorce in favour of the appellant. Subsequently, the respondent filed an application in I.A.No.157 of 2002 for grant of maintenance and the learned Principal Subordinate Judge, Cuddalore, by order dated 13.9.2006, directed the appellant to pay maintenance to the respondent at the rate of Rs.2,000/- per month. As against the said order granting maintenance, the appellant has come forward with the present appeal.

3. However, as per Section 28(1) of the Hindu Marriage Act, 1955, as against the order passed under Section 25 of the Hindu Marriage Act, 1955, granting maintenance after the disposal of the HMOP, an appeal would lie to the Court to which appeals ordinarily lie from the decisions of the Court given in the exercise of its original civil jurisdiction. The present appeal should have been filed before the District Court, Cuddalore, and not before this Court.

4. Hence, the Registry is directed to return the appeal papers to the learned counsel appearing for the appellant to enable him to re-present it before the appropriate Court viz., District Court, Cuddalore. No Costs. Consequently, the Miscellaneous Petition is closed.

-s/d-
Assistant Registrar(CSV)

True Copy

Sub-Assistant Registrar

sbi

To

1.The Principal Subordinate Court,
Cuddalore.

C.M.A.No.3140 of 2006

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