

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 20.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN**C.M.A. (MD) No.1045 of 2016**

Kanakaraj

... Appellant/Petitioner

Vs.

Valsala

... Respondent/Respondent

Prayer: Appeal filed under Section 28 of the Hindu Marriage Act, 1955, against the judgment and decree dated 09.04.2016 passed in H.M.O.P.No.42 of 2010 on the file of the Subordinate Court, Kuzhithurai.

For Appellant : Mr.N.S.Ramakrishna Dass

For Respondent : Ms.J.Anandhavalli

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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the husband against the judgment in H.M.O.P.No.42 of 2010 dismissing his application for divorce. This appeal is against the judgment of a Sub Court under Section 28 of the Hindu Marriage Act, 1955. An appeal against the judgment of a Sub Court made in the proceedings under the said Act will have to be filed before the appellate Court as if the Sub Court had exercised its original jurisdiction.

2. Therefore, this Civil Miscellaneous Appeal should have been filed before the District Court, Kanyakumari District at Nagercoil.

3. Accordingly, this Civil Miscellaneous Appeal is dismissed as not maintainable in this Court. No costs.

4. Registry is directed to return the certified copies of the judgment and decree produced by the appellant along with this appeal to enable the appellant to file the appeal before the District Court, Kanyakumari District at Nagercoil. Needless to state that the appellant would be entitled to the benefit of Section 14 of the Limitation Act when he files the appeal before the District Court, Kanyakumari District at Nagercoil.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To

1.The Subordinate Judge, Kuzhithurai.

2.The Section Officer,

V.R.Section,

Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.N.S.Ramakrishna dass, Advocate in SR.No.61256

+1cc to Ms.J.Anandhavalli, Advocate in SR.No.61332

rsb

AE/JC/SAR1/28.06.2017/2P/5C

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