



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.1070 of 2015

P.Arul Prakasam

... Appellant / Petitioner

Vs.

Sarmila @ Santhana Mari

... Respondent / Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 55 of I.D.O.P.Act., to set aside the judgment and decree passed by the Principal District Judge, Virudhunagar District at Srivilliputhur in I.D.O.P.No.34 of 2011 dated 23.12.2014.

For Appellant : Mr.M.Siddharthan

For Respondent : Mr.R.J.Karthick

JUDGMENT

The appellant Arul Prakasam got married to the respondent herein viz., Sarmila @ Santhana Mari on 03.05.2009 at St.Arulanandhar Temple, Vadapatti, Sivakasi Taluk as per Christian rites and customs. A girl child viz., Aansimerry was born of the wedlock on 20.05.2010. The marital relationship between the parties came under strain. The appellant filed I.D.O.P.No.34 of 2011 on the file of the Principal District Judge, Virudhunagar at Srivilliputhur, seeking dissolution of his marriage. The learned trial Judge by order dated 23.12.2014 dismissed the petition. Aggrieved by the same, this appeal has been filed.

2.The appellant filed his petition under Section 10(i)(x) of the Indian Divorce Act. He examined himself and one Vairamuthu as P.W.2. I am of the view that the evidence available on record categorically establishes cruelty on the part of the respondent. I therefore have no hesitation in setting aside the order dated 23.12.2014 dismissing I.D.O.P.No.34 of 2011 on the file of the



Principal District Judge, Virudhunagar District at Srivilliputhur. The case projected in the petition stands made out. The appellant is entitled to dissolution of his marriage with the respondent on the ground of cruelty. I.D.O.P.No.34 of 2011 therefore stands allowed. But, this is not the end of the matter.

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3. During the course of the hearing, the appellant accepted that he has a statutory obligation to maintain his wife and also the daughter born to him through her. The respondent had already filed a maintenance case and obtained orders. Her specific grievance is that the appellant has not complied with the orders regarding the maintenance and that a substantial sum of money is due and payable by the appellant by way of arrears. It is made clear that it is open to the respondent to recover the said amount of arrears of maintenance that had accrued till date.

4. The appellant has agreed to pay a lumpsum amount of Rs.10 lakhs as permanent alimony to the respondent. The appellant shall pay the said amount within a period of six months from today. Recording the said undertaking of the appellant, a direction is given to the appellant to pay the said sum of Rs.10 lakhs directly to the respondent within the said stipulated period. If the appellant fails to make the said payment, it is open to the respondent to institute proceedings for contempt of Court before this Court in these proceedings. The child viz., Aansimerry born to the appellant through the respondent is in the custody of the respondent. The respondent is declared as the guardian for the minor child. The appellant shall pay a sum of Rs.6,000/- every month towards maintenance of the respondent and the child. The amount shall be credited directly in the account of the respondent from the salary account of the appellant. The appellant shall issue standing and irrevocable instructions to the department in this regard. Direction is given to the District Elementary Educational Officer/Pay drawing officer, under whom the appellant is employed to deduct a sum of Rs.6,000/- from the salary account of the appellant and remit the same to the account of the respondent. It is made clear that the sum of Rs.6,000/- is directed to be remitted to the account of the respondent every month i.e. from January 2018.

5. This civil miscellaneous appeal stands disposed of with above directions. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/



To

1. The Principal District Judge,
Virudhunagar District at Srivilliputhur.
 2. The District Elementary Educational Officer,
Theni.
 3. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court, Madurai. (2copies)
- +2cc to Mr.R.J.KARTHICK Advocate in SR. NO. 92160,91855
- +1cc to Mr.M.SIDDHARTHAN Advocate in SR. NO. 92320

Arul
AE/KKR/SAR2/25/01/2018/3P/8C

C.M.A. (MD) No.1070 of 2015

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