



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 21.12.2017  
CORAM  
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) Nos.1189 & 1190 of 2017  
and  
C.M.P. (MD) Nos.11788 & 11789 of 2017

Punniaraj ... Appellant / Respondent  
in Both Civil Miscellaneous Appeals

Vs.

Navamani ... Respondent / Respondent  
in Both Civil Miscellaneous Appeals

Prayer in C.M.A (MD).No.1189 of 2017: Appeal filed under Section 55 of the Indian Divorce Act, 1869, to reverse and allow I.D.O.P.No.13 of 2009 on the file of the Principal District Judge, Madurai dated 31.03.2010.

Prayer in C.M.A (MD).No.1190 of 2017 : Appeal filed under Section 55 of the Indian Divorce Act, 1869, to reverse and set aside the Judgment and Decree in I.D.O.P.No.12 of 2009 on the file of the Principal District Judge, Madurai dated 31.03.2010.

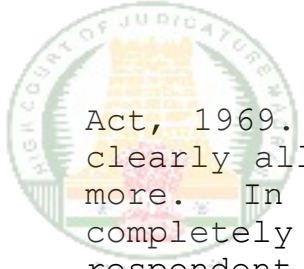
For Appellant : Mr.V.Raghavachari  
For Respondent : Mr.K.Muthumalai  
(in both C.M.As)

COMMON JUDGMENT

The appellant is the husband. The respondent is the wife. The respondent filed I.D.O.P. No. 53 of 2005 on the file of the Family Court, Madurai, seeking restitution of conjugal rights. The appellant filed I.D.O.P. No. 4 of 2008 on the file of District Court, Ramanathapuram for divorce. The learned Principal District Judge, Madurai, allowed I.D.O.P. No. 53 of 2005 re-numbered as I.D.O.P. No. 12 of 2009 and dismissed I.D.O.P. No. 4 of 2007 re-numbered as I.D.O.P. No. 13 of 2009 by order dated 31.03.2010. Questioning the same, the appellant has filed these Civil Miscellaneous Appeals.

3. Heard the learned counsel appearing on either side.

4. A mere look at the petition filed by the appellant for divorce is sufficient to dismiss these Civil Miscellaneous Appeals. The appellant admits that the marriage between him and the respondent took place on 23.08.1991. The petition filed by the appellant is styled as one under Section 10 of the Indian Divorce



Act, 1969. Section 10(i) contains as many as 10 grounds. He must clearly allege that he is seeking Divorce on a particular ground or more. In the present case, nothing is stated and the petition is completely vague. He would, at one point, contend that the respondent falls within the prohibited degree of relationship and that therefore the marriage itself is nullity. But the petitioner's prayer is not for declaring the so called marriage as void. It is for dissolution of marriage. When, the petitioner seeks for the relief of dissolution of marriage, it means that he is conceding that a valid marriage took place. The petition has been filed almost 17 years after the solemnization of marriage between the appellant and the respondent. It is not the case of mere non quoting of the relevant provision. In the pleading also the cause of action has not been clearly projected. There is also an averment to the effect that the marriage took place as per customary law. Admittedly the parties herein profess Christian religion and therefore the question of customary divorce would not arise. The parties who have had a validly solemnized marriage can get divorce either by mutual consent or by establishing marital misconduct on the part of the other spouse. In the present case the appellant herein is not in a position to show any misconduct on the part of the respondent. The learned trial Judge, after consideration of the material on record has given a finding that none of the grounds which can entitle the appellant to the relief of divorce has been established by him.

5. The order dated 31.03.2010 made in I.D.O.P No.12 and 13 of 2009 on the file of the Principal District Judge, Madurai does not warrant any interference. Both the Civil Miscellaneous Appeals stand dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

- 1.The Principal District Judge, Madurai.
- 2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai. **(Two Copies)**

+1cc to M/S.K.Muthumalai, Advocate SR.No. 94382

+1cc to M/S.V.Raghavachari, Advocate SR.No. 94424

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