

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

DATED: 01.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN**C.M.A.No.1143 of 2015**

J.Jullious ..Appellant/Respondent/Respondent
Vs.
Thirble Star ... Respondent/Petitioner/Petitioner

Prayer: Civil Miscellaneous Appeal is filed under Section 55 of Divorce Act, 1869 (4 of 1869) to set aside the order passed in I.A.No. 21 of 2012 in I.D.O.P.No.302 of 2010 dated 11.02.2015 on the file of the District Judge, Kanyakumari at Nagercoil.

For Petitioner : Mr.S.C.Herold Singh
For Respondent : Mr.R.Murugan

* * * * *

CMP (MD) No.6237/2017:

Thirblestar ... Petitioner
Vs.
Jullious ... Respondent

Prayer : This Petition is filed originally under Section 32 of the Divorce Act, 1869 to grant a decree for restitution of conjugal right of the petitioner and resumption of married life with the respondent, to grant an other interim relief and a decree for the cost of the proceedings.

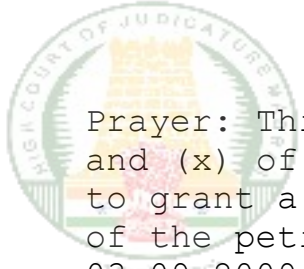
As per order dated 01.03.17 in CMA(MD).No.1143/15 the IDOP.No.302/10 was withdrawn from the file of the District Court, Kanniyakumari at Nagercoil and taken on file by this Hon'ble Court and Renumbered as CMP(MD).No.6237/17

For Petitioner : Mr.R.Murugan
For Respondent : Mr.S.C.Herold Singh

CMP (MD) No.6238/2017:

Julius ... Petitioner
Vs.

... Respondent



Prayer: This petition is filed originally under Section 10(i)(vii) and (x) of Indian Divorce Act IV of 1869 and (Amendment) Act, 2001 to grant a decree for divorce and thereby dissolving the marriage of the petitioner with the respondent that took place on 03.09.2009.

As per order dated 01.03.17 in CMA(MD).No.1143/15 the IDOP.No.315/2010 was withdrawn from the file of the District Court, Kanniyakumari at Nagercoil and taken on file by this Hon'ble Court and Renumbered as CMP(MD).No.6238/17

For Petitioner : Mr.S.C.Herold Singh
For Respondent : Mr.R.Murugan

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the husband against the order of maintenance to the tune of Rs.5,000/- per month as an interim maintenance in the petition filed by the respondent/wife in I.A.No. 21 of 2012 in I.D.O.P.No.302 of 2010 dated 11.02.2015 on the file of the District Judge, Kanyakumari at Nagercoil.

2. The appellant and the respondent got married on 03.09.2009. Since dispute arose between the parties from the year 2010, they have been living separately. Thereafter, the respondent /wife filed a petition for restitution of conjugal rights in I.D.O.P.No.302 of 2010 on the file of the District Judge, Nagercoil, Kanyakumari District. In the said petition I.A.No.21 of 2012 has also been filed by the respondent/wife seeking interim maintenance. A sum of Rs.5000/- has been fixed by the trial court, against which only, the present petition has been preferred.

3. It is also brought to the notice of this Court that I.D.O.P.No.315 of 2010 filed by the appellant/husband for divorce is also pending on the file of the very same court.

4. When the matter is called today, both parties are present and they categorically submitted that the issue has been sorted out by the respective counsels and they submitted in the open court that they have decided to get separated. In this regard, a joint compromise memo dated 01.03.2017 signed by both parties and also countersigned by the respective Counsels has been filed.

5. In view of the above development, no useful purpose will be achieved by keeping both the proceedings before the trial court and therefore this Court *suo motu* withdraws and calls for the records in I.D.O.P.No. 315 of 2010 seeking for decree of divorce. The Court is guided by Article 227 of the Constitution of India and Section 151 of Code of Civil Procedure to the file of this Court and grants a decree of divorce by mutual consent by dissolving



the marriage performed on 03.09.2009 between the appellant and the respondent.

6. In view of passing of the order in divorce petition and also settlement of the amount of Rs.6,00,000/- as stated in the joint compromise memo, I.D.O.P.No.302 of 2010 is dismissed and the order passed by the trial court in I.A.No. 21 of 2012 in I.D.O.P.No.302 of 2010 dated 11.02.2015 granting interim maintenance is set aside. The compromise memo shall form part of the decree. Accordingly, this Civil Miscellaneous Appeal is ordered. No costs. Consequently, the connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(Co)

/True Copy/

Sub Assistant Registrar

To

1.The District Judge, Kanyakumari District at Nagercoil.

+1cc to Mr.R.Murugan, Advocate in SR.No.11792

+1cc to Mr.S.C.Herold Singh, Advocate in SR.No.11757

CM

AE/MR KKR/SAR1/08.08.2017/3P/4C

C.M.A. (MD) .No.1143 of 2015
01.03.2017