



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) Nos.54 and 55 of 2014

and

C.M.P. (MD) .Nos.11385 and 11386 of 2016

and

M.P. (MD) .No.1 of 2014

Robin Raj ... Appellant/Respondent in both appeals

Vs.

Latha Selvi ... Respondent/Petitioner in both appeals

Common Prayer: Appeals filed under Section 55 of the Indian Divorce Act, against the judgment and decree dated 31.10.2013 passed in I.D.O.P.Nos.102 of 2008 and 138 of 2009, on the file of the District Court, Nagercoil.

In both appeals

For Appellant : Mr.V.Meenakshisundaram
for Mr.D.Nallathambi

For Respondent : Mr.M.K.Srinivasan
for R.Nandakumar

COMMON JUDGMENT

Heard the learned counsel on either side.

2.The appellant got married to the respondent on 08.02.2002 as per Christian rites and customs. A child Akshaya was born on 15.05.2003. The parties remained separate from each other since 2007 onwards. The respondent herein LathaSelvi filed I.D.O.P.No.102 of 2008, seeking restitution of conjugal rights. The appellant herein filed I.D.O.P.No.138 of 2009, on the file of the District Court, Kanyakumari, for dissolution of the marriage. Both the I.D.O.Ps were taken up together. By order dated 31.10.2013, I.D.O.P.No.102 of 2008, filed by the wife/respondent herein was allowed. I.D.O.P.No.138 of 2009, filed by the husband/appellant herein was dismissed. These appeals have been filed by the husband questioning the order dated 31.10.2013 passed in I.D.O.P.Nos.102 of 2008 and 138 of 2009, on the file of the District Court, Nagercoil.



3.The appellant herein is said to be differently abled. He examined himself as PW1. He had deposed that he was beaten up at the instance of his wife. It appears that a sum of Rs.2,00,000/- was advanced by the father in law of the appellant in order to save the house being brought to auction. There appears to have been an understanding between the parties that this house would be formally settled in favour of the respondent herein. The appellant did not carry out the said obligation. Therefore, the in-laws of the appellant had criminally intimidated the appellant that if he did not settle the house in favour of the respondent he would face the consequences. The respondent had also threatened she would foist a false case against him. The respondent had also threatened she would commit suicide and implicate the appellant. The version projected by the appellant is probabalised by Ex.R2 dated 07.02.2007. The respondent had given a police complaint before the Alamnoor Police Station, Kuzhithurai. This testimony of the appellant inspires the confidence of this Court. The appellant is therefore justified in entertaining the impression that it will be harmful and injurious to him to live with the respondent.

4.I am therefore of the view that the case of cruelty stands made out. In this view of the matter the order dated 31.10.2013 made in I.D.O.P.Nos.102 of 2008 and 138 of 2009, on the file of the District Court, Nagercoil, stands set aside. Both these appeals stand allowed. The marriage that took place between the appellant and the respondent on 08.02.2002 is dissolved. But the matter cannot rest there. The appellant undertook before this Court that he shall pay a sum of Rs.10,00,000/- as permanent alimony and maintenance to the respondent.

5.The learned counsel appearing for the respondent on instructions states that this can be paid towards full and final settlement to the respondent. The learned counsel appearing for the appellant seeks three months time to make the said payment to the respondent. Time sought for is granted.

6.As regards daughter Akshaya, the appellant is given six months time from today to pay a sum of Rs.6,00,000/- towards her maintenance, education and marriage prospects. The appellant shall create a deposit in the name of the daughter Akshaya in the State Bank of India or any Nationalised Bank and hand over the original Fixed Deposit Receipt to the learned counsel for the respondent. The respondent shall be shown as the guardian for the minor child Akshaya. The respondent shall be at liberty to withdraw the accrued interest once in six months directly from the Bank. When Akshaya attains majority, it is open to her to encash the fixed deposit.

7.These Civil Miscellaneous Appeals are allowed in the terms



said out above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

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To

1.The District Court, Nagercoil.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
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+ 1 cc TO Mr.D.Nallathambi , Advocate in SR No. 92949

+ 1 cc TO Mr.R.Nandakumar , Advocate in SR No. 93076

tsg

AE/JC/SAR4/28.06.2018/3P/6C

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