



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2017

CORAM

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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A(MD)No.56 of 2016

Nirmal Prabhu Doss .. Appellant / Petitioner

Vs.

Shirley Johannah .. Respondent / Respondent

PRAYER:- Civil Miscellaneous Appeal is filed under Section 55 of Indian Divorce Act, 1869, to set aside the judgment and decree, dated 03.09.2015, made in I.D.O.P.No. 52 of 2012, on the file of the Principal District Court, Thoothukudi.

For Appellant : Mr.S.Venkatesan
For Respondent : Mr.S.C.Herold Singh

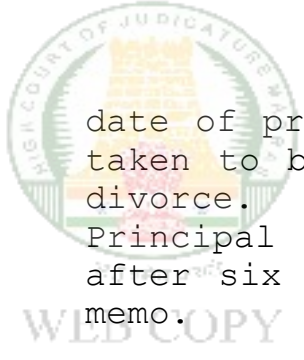
J U D G M E N T

This Civil Miscellaneous Appeal is filed under Section 55 of Indian Divorce Act, 1869, to set aside the decree and judgment passed in I.D.O.P.No. 52 of 2012 dated 03.09.2015 on the file of the Principal District Court, Thoothukudi.

2. This appeal has been filed by the husband against dismissal of his application filed before the Principal District Court, Tuticorin.

3. Pending this appeal, the parties have entered into a compromise, by which, they agreed for a consent divorce. They have filed a compromise memo dated 16.06.2017 before this Court. The Parties have also agreed for setting aside the dismissal order and for a consent divorce under Section 10(A) of the Indian Divorce Act, 1869. However, the Court is required to wait for six months from the date of presentation of the petition for a consent divorce. Therefore, the consent divorce cannot be granted instantaneously.

4. The other requirement of the parties living apart for more than two years is satisfied in this case. Hence, the order of the Trial Court in I.D.O.P.No.52 of 2012, dated 03.09.2015 is set aside and the same is remitted to the Trial Court namely, the Principal District Court, Thoothukudi. Today (19.06.2017), the



date of presentation of the compromise memo before this court, is taken to be the date of presentation of the petition for consent divorce. The parties are therefore directed to appear before the Principal District Judge, Tuticorin on 20th December 2017, i.e after six months from the date of presentation of the compromise memo.

5. The learned Principal District Judge, Thoothukudi shall ascertain himself the wishes of the parties on the said date in accordance with Section 10(A) of the Indian Divorce Act, 1869 and proceed to pass orders depending on the consent expressed by the parties before him.

6. With the above direction, this Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-
Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

(*)JOINT COMPROMSIE MEMO XEROX COPY IS ENCLOSED HEREWITH

To

1.The Principal District Court,
Thoothukudi.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai

+One cc to Mr.S.Venkatesan, Advocate, SR.No.61002

TSG/KM
RL/4C/2P/KP/SAR1/6/7/2017

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