

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 19-01-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.A.No.3775 OF 2013

Ravindra Raj

...Appellant /Petitioner

-vs-

Amala Bai

... Respondent/Respondent

Appeal against the order, dated 11.09.2012, passed in I.D.O.P.No.23 of 2011 on the file of Principal District Judge, Erode.

For appellant : Mr.I.David Singh for
Mr.S.Parthasarathy
For respondent : Mr.A.Mohamed Ismail

JUDGMENT

This appeal is filed by the husband against the dismissal of the petition for divorce filed on the grounds of either side being infected with a communicable disease and cruelty

2 On going through the pleadings and also the order of the Court below, it is elicited that the respondent-wife has been infected with HIV through her husband. There is a clear finding that the appellant was first diagnosed with HIV in the year 2005 and, thereafter, his wife was also infected with the said disease. It is also clearly found that other than this, no other incidence of cruelty has been pleaded or proved by the appellant-husband.

3. Learned counsel for the appellant would submit that for the past ten years, the parties are living separately and, therefore, there is no further purpose in the life of reunion.

4. In normal circumstances, Courts have held that when the marriage has broken down irrevocably and there are no chances of reunion, longer period of separation will render them the benefitt of divorce. But, the case on hand is not a normal case, but, both the parties are infected with HIV, which is a very serious disease. In old age, they cannot expect the society or relatives or friends to come forward voluntarily to take care of them. In such circumstances, the contention of the

respondent that they have to take care of each other sounds reasonable. The respondent expressed her willingness to live with her husband, by burying all the differences. It is only the state of mind that separates the appellant from the respondent. In due course, time may heal the misunderstanding, and the parties may take a different decision. At this stage, I do not find any strong ground for granting divorce. The finding of the Court below that no pleading as to cruelty is made out is absolutely correct. Therefore, the order of the Court below need not be interefered with and the same is, accordingly, confirmed.

5. Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dixit

To

1.The Principal District Judge,
Erode.

+1 cc to Mr.I.David Singh Advocate sr 4151

+1 cc to Mr.A.Mohammed Ismail Advocate sr 4674

C.M.A.No.3775 OF 2013

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