



WEB COPY

S.A.(MD).No.225 of 2006

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 02.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

S.A. (MD) .No.225 of 2006

and

C.M.P. (MD)No.1670 of 2006

Raju

.. 1st Defendant/ Appellant /
Appellant

Vs.

1.Sellamani

2.Vanitha

.. Plaintiffs / Respondents1&2/
Respondents 1&2

3.Primary Educational Officer,
Municipal Office Buildings,
Ayad Road,
Karur.

.. 2nd Defendant/ 3rd Respondent/
3rd Respondent

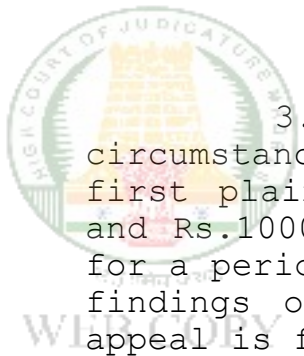
PRAYER: This Second Appeal is filed under Section 100 of Civil Procedure Code, against the Judgment and Decree, dated 26.04.2005, made in A.S.No.16 of 2005, on the file of the District Judge, Karur confirming the judgment and decree, dated 25.11.2004 made in O.S.No.670 of 2004, on the file of the Additional District Munsif, Karur.

For Appellant	: Mr.K.Govindarajan
For R1 and R2	: Mr.S.Krishnamoorthy
For R3	: No appearance

JUDGMENT

Aggrieved over the concurrent Judgements and decrees passed in O.S.No.670 of 2004, on the file of the learned Additional District Munsif, Karur, and in A.S.No.16 of 2005, on the file of the learned District Judge, Karur, the appellant/1st defendant filed the present second appeal. The trial Court awarded a sum of Rs.500/- per month, for maintenance to the wife and Rs.1000/-per annum, towards the medical expenses and Rs.1000/- per annum, towards clothes. Besides, a sum of Rs.50,000/- has claimed for marriage expenses to his daughter. It is the case of the plaintiffs that the appellant has deserted the plaintiffs/respondents and leading adulterous life and he has also made an attempt to go on voluntary retirement without paying anything to the respondents. Hence the suit.

2. The trial Court framed eight issues on the side of the plaintiff. P.W.1 was examined on the plaintiff's side. On the side of the defendants, D.W.1 was examined and Ex.P.1 was exhibited.



3. The trial Court after analysing the entire facts and circumstances, awarded maintenance of Rs.250/-per month, to the first plaintiff and Rs.1000/- per annum, towards medical expenses and Rs.1000/- per annum, for clothes and also awarded maintenance for a period of three years. The first Appellate Court confirmed the findings of the trial Court as against which the present second appeal is filed.

4. The learned counsel for the appellant submitted that since the parties are professing Christian faith, the suit is not maintainable. This is one of the main question of law in this case. He further submitted that the findings of the Courts below is against the law and the same is liable to be set aside.

5. I have heard the learned Counsel appearing for the appellant, the learned counsel appearing for the respondents 1&2 and also perused the records carefully.

6. The suit has been filed for claiming the maintenance of Rs.500/- per month and Rs.1000/- each, for medical expenses and clothes per annum. In fact, the trial Court has considered the maintenance awarded by the Judicial Magistrate under Section 125 Cr.P.C., and increased the above amount while awarding the maintenance in the suit. The first Appellant Court has factually considered and arrived such conclusion. The contention made by the learned counsel for the appellant, that the suit is not maintainable, cannot be countenanced for the reason that there is no specific provision under the Christian Marriage Act for claiming maintenance. Further, claiming the right of maintenance is applicable to all the persons irrespective of the caste, religion, etc. For that reason alone, even the provision has been made under Section 125 Cr.P.C., that apart right, to claim the maintenance is a civil right that can be enforced by the Civil Court. Therefore, this Court does not find any substantial question of law to admit the appeal.

7. Accordingly, this Second Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

PJL



To

1. The District Judge,
Karur.

2. The Additional District Munsif,
Karur.

3. The Section Officer, (2 copies)
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.GOVINDARAJAN, Advocate (SR-103128[F]dated
03/12/2019)

**Judgment made in
S.A. (MD) .No.225 of 2006
02.12.2019**

VB(28.01.2020) 3P 6C