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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2020

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.M.A. No.2507 of 2009 and
M.P.No.1 of 2009

Kalaiselvi ...Wife/Respondent/Appellant

v.

Amirthavasagam ...Husband/Petitioner/Respondent

Civil Miscellaneous Appeal filed under section 56 of the Indian Divorce Act, 1869, against the judgment and decree dated 10.03.2008 made in I.D.O.P. No.37 of 2006 on the file of the Principal District Judge at Erode.

For Appellant : Mr. V.Balamurugane

For Respondent : Mr.T.Gowtham

J U D G M E N T

Challenging the order passed in I.D.O.P. No.37 of 2006 on the file of the Principal District Court, Erode, the appellant, who is the wife of the respondent, has filed the above Civil Miscellaneous Appeal.

2.1 The respondent filed the petition in I.D.O.P. No.37 of 2006 for divorce on the ground of cruelty.

2.2 According to the parties, they are professing Christianity and they got married on 14.09.1984 at C.S.I. Church, Erode. Because of some misunderstanding between the appellant and the respondent, they were not leading a happy married life. Later, the appellant left the respondent's house under the pretext of having medical check-up under the guidance of her parents and thereafter, she did not return back. From 1987 onwards, the appellant is living along with her parents.

2.3 The appellant filed her counter stating that during her stay at the respondent's house, she was subjected to severe dowry harassment from her husband and her in-laws. Further,



the appellant has stated that the respondent assaulted the appellant's mother with Chapal and her parents were also ill-treated.

3. Before the Trial Court, on the side of the respondent, he was examined as P.W.1 and 4 documents, Exs.A-1 to A-4 were marked and on the side of the appellant, 3 witnesses were examined as R.W.1 to R.W.3 and 7 documents, Exs. B-1 to B-7 were marked.

4. The Trial Court, taking into consideration the case of both the parties, allowed the Original Petition and dissolved the marriage and granted a decree for divorce and also ordered permanent alimony of Rs.1,500/- per month in favour of the appellant-wife. While granting divorce, the Trial Court also took into consideration that the appellant and the respondent were living separately since 1987 and there is no possibility of re-union.

5. When the appeal is taken up for hearing, learned counsel on either side also submitted that they are living separately for more than 32 years. The Trial Court also considering the oral and documentary evidences came to the conclusion that the respondent had clearly established the mental cruelty committed by the appellant and granted the decree for divorce.

6. It is also brought to the notice of this Court that the appellant has also filed a petition under section 125 of the Criminal Procedure Code for maintenance and the same was also ordered and she is also getting the monthly maintenance from the respondent.

7. Since the respondent has clearly established the mental cruelty against the appellant, the Trial Court has rightly granted the divorce on the ground of cruelty.

8. In these circumstances, I do not find any ground to interfere with the order passed by the Trial court. The Civil Miscellaneous Appeal is liable to be dismissed. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

Rj



To

The Principal District Judge,
Erode.

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+1cc to Mr.T.Gowtham, Advocate SR.No.22429

+1cc to Mr.V.Balamurugane, Advocate SR.No.22255

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RR (CO)
GMY (13/07/2020)