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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2021

CORAM :

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN
and
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.4490 of 2019
and C.M.P.No.25390 of 2019

P.Nandhakumar ... Appellant/Petitioner

Vs

S.Sathya ... Respondent/Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, prayed to set aside the Judgment and Decree passed in F.C.O.P.No.36 of 2018 dated 05.03.2018, passed by the learned Family Court at Namakkal.

For Appellant : Mrs.R.Sumithra Chakkaravarthi
For Respondent : Mr.M.Jaikumar

J U D G M E N T

(Judgment of the Court was delivered by T.V.THAMILSELVI, J.)

The appellant herein is the petitioner in M.C.O.P.No.36 of 2018 on the file of the learned Judge, Family Court, Namakkal filed by him seeking divorce by dissolving the marriage between himself and his wife / Sathya/ respondent dated 28.10.2012, on the ground of cruelty under Section 13(1)(i-a) of the Hindu Marriage Act.

2. The respondent contested the case. On hearing both sides, the learned Judge, Family Court, Namakkal concluded that the appellant / petitioner has not proved his case and accordingly, the petition was dismissed. Aggrieved by the said order, the appellant / Husband has preferred this Appeal.

3. Heard, Mr.R.Sumithra Chakkravarthi, learned counsel appearing for the appellant and Mr.M.Jaikumar, learned counsel appearing for the respondent.

4. At the time of arguments, the respondent also appeared through her counsel and admitted that the child is under her custody. The respondent / wife also filed an affidavit and submitted that she has no objection to allow this CMA by



dissolving the marriage by consent. But, she reserved her right to prosecute F.C.O.P.No.36 of 2018 pending before the family Court, which was filed by her seeking maintenance for her minor daughter and herself.

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5. Even on a perusal of the records, it is revealed that she also issued notice to the appellant on 01.03.2016, claiming partition of the immovable property belonging to the petitioner and his family for her minor daughter. The parties before this Court, i.e., the appellant and the respondent are Advocate and Advocate Clerk. Hence, both of them know well about the legal procedures.

6.As the divorce is now sought based on the consent of parties, Civil Miscellaneous Appeal is allowed. The order passed by the learned Judge, Family Court, Namakkal in FCOP.NO.36 of 2018 is set aside. Accordingly, divorce is granted without prejudice to the claim of the respondent for maintenance as well as the partition of family property of appellant for her minor daughter and herself. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
ASSISTANT REGISTRAR

TRUE COPY

SUB ASSISTANT REGISTRAR

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To

1.The Judge,
Family Court,
Namakkal.

2.The Section Officer,
VR Section, High Court,
Madras.

+1cc to Mr.S.Chakkaravarthy, Advocate Sr.41984

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and
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srg 23/11/2021