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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.4586 of 2019

and

C.M.P.No.26037 of 2019

M.Gunaprasath

..Appellant/Petitioner

Vs.

G.Sudarmani @ Rebakkal

..Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 55 of the Indian Divorce Act, against the fair and decreetal order dated 28.08.2019 made in I.D.O.P.No.38 of 2017 on the file of the Learned Principal District Judge, Vellore at Vellore District.

For Appellant	:	Mr.R.Subramaniam
For Respondent	:	Mr.K.GoviGanesan

J U D G M E N T

The Fair and Decreetal order dated 28.08.2019 passed in I.D.O.P.No.38 of 2017 is under challenge in the present Civil Miscellaneous Appeal.

2. The marriage between the petitioner and the respondent was solemnized on 22.05.2013 as per the Christian Rites and Customs. After the marriage, the appellant and the respondent were living for about 4 months. Even during that period, there was misunderstandings between the spouses and the appellant contended that the respondent failed to discharge her duties, more specifically, regarding domestic works in her matrimonial home and she did not give any proper respect to the appellant. The appellant has stated that due to the ill advise of her parents, the respondent/wife frequently visited her parents home. The elders of the family made an attempt to reunite the appellant and the respondent for resumption of matrimonial home. However, the efforts went in vain. The respondent/wife defended the Divorce Petition filed by the appellant by stating that she had taken much more care and affection towards the appellant and had taken care of all family activities. However, the appellant behaved in an indifferent manner and ill-treated the respondent/wife and used to scold her.

3. The petition for divorce was filed based on such petty issues. The trial Court adjudicated the issues. The findings of the trial Court reveals that the Cross examination of P.W.1 reveals that he has admitted that after departure of the



respondent/wife from the matrimonial home, he has not invited her to live. Even the mother of the respondent/wife had approached him to live with her daughter. The respondent/wife was ready to live with him. However, the appellant answered that since the respondent/wife has scolded him as impotent, he was not willing to live with her. Thus, during cross examination, he has admitted that the mother of the respondent/wife approached him to live with her daughter and that was not considered by the appellant. The petition for divorce was filed on the ground of cruelty. However, the appellant could not able to prove the allegations of cruelty. In this regard, the trial Court formed an opinion and made a finding in Paragraph 12 which reads as under:

"12. Moreover, he has not placed any documents or oral evidence to prove the ground of cruelty. The respondent has also examined as R.W.1. Even in her cross examination also, nothing has been elicited to support the case of the petitioner. Though she has admitted in her cross examination that only 6 months, she has lived with the petitioner and due to small disputes, she has habit of going to her parents' house, by such admission alone, this Court cannot come to a conclusion that the respondent has cruelly treated the petitioner."

4. This Court is of the considered opinion that the petition for Dissolution of marriage filed on the allegations of cruelty must be established and in the present case, the appellant could not able to prove any such cruelty as alleged in the petition. Even the allegations of cruelty raised are not sufficient to form an opinion that the respondent committed an act of cruelty. This apart, the appellant and the respondent were living together for about 4 months and the pleadings of the appellant reveals that there is no sufficient grounds for establishing cruelty and therefore, this Court has no hesitation in arriving a conclusion that the findings of the trial Court is in consonance with the documents and the evidences produced by the respective parties and there is no infirmity as such.

5. Thus, the Fair and Decreetal order dated 28.08.2019 passed in I.D.O.P.No.38 of 2017 stands confirmed and the Civil Miscellaneous Appeal in C.M.A.No.4586 of 2019 is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar



To

The Principal District Judge,
Vellore.

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+1cc to Mr.R.Subramaniam, Advocate, S.R.No.19683

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.19630

C.M.A.No.4586 of 2019

RSI (CO)
GN(29/09/2021)