



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2021

CORAM:

THE HONOURABLE **MRS. JUSTICE R. THARANI**

C.M.A. (MD) No. 392 of 2013

and

M.P. (MD) Nos. 1 and 2 of 2013

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Anitha ... Appellant / Respondent

Vs.

G.Shrine ... Respondent / Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 55 of the Indian Divorce Act, against the judgment and decree made in I.D.O.P.No.152 of 2007, on the file of the District Judge, Nagercoil, dated 05.09.2012.

For Appellant : Mr.T.Arul
For Respondent : Mr.K.Guhan

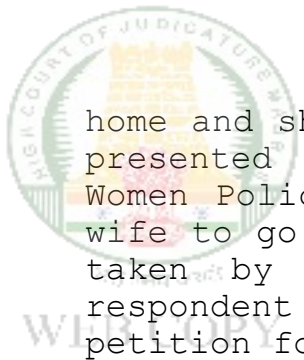
JUDGMENT

This Civil Miscellaneous Appeal is filed against the judgment and decree made in I.D.O.P.No.152 of 2007, on the file of the District Judge, Nagercoil, dated 05.09.2012.

2.The appellant and the respondent got married on 27.01.1999. The respondent herein - husband filed a petition in I.D.O.P.No.152 of 2007 under Section 10 (ix) of the Indian Divorce Act and the marriage was dissolved by the order of the District Court, Kanyakumari, by its order, dated 05.09.2012. Against the order, the appellant - wife has preferred this Civil Miscellaneous Appeal.

3.Brief substance of the petition filed by the petitioner -husband in I.D.O.P.No.152 of 2007, is as follows:

The marriage between the petitioner and the respondent was solemnized on 27.01.1999, at Calvary Lutheran Church, Christ Nagar, Nagercoil and they lived together at Vadaseri. The petitioner - husband was working at Muscat and he used to visit the native place, once in two years. There was a mis-understanding between the couple and even for simple matters, the respondent - wife used to threaten the husband, by attempting to commit suicide. During the time of November - 1999, the respondent - wife left the matrimonial



home and she refused to return back to the matrimonial home and she presented a false complaint before the Inspector of Police, All Women Police Station. When the Inspector advised the respondent - wife to go to her matrimonial home, she refused and all the efforts taken by the family elders for re-union failed. Since the respondent - wife deserted the petitioner - husband, he filed a petition for divorce.

4. Brief substance of the counter filed by the respondent - wife, in I.D.O.P.No.152 of 2007, is as follows:

All the averments in the petition are false. Only the petitioner - husband and his family members demanded dowry. After the petitioner - husband went to Foreign Country, the petitioner's mother and family members tortured the respondent - wife. On the complaint filed by the respondent - wife, the Inspector of Police, All Women Police Station, advised both the parties to live together and advised the petitioner - husband to live separately with the respondent - wife. The gold ornaments and other articles are with the petitioner - husband and the petition is liable to be dismissed.

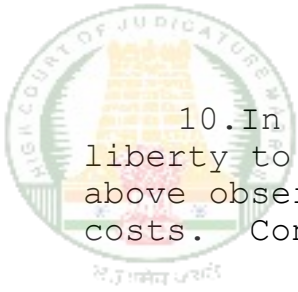
5. After enquiry, the trial Court allowed the Petition, by dissolving the marriage. Against the same, the respondent - wife has preferred this Civil Miscellaneous Appeal.

6. On the side of the appellant, it is stated that the appellant - wife did not desert the husband. Even after the difference of opinion in the year 2000, the appellant - wife and the respondent-husband were leading a peaceful life till 04.12.2005. From the letters, dated 09.01.2002, 02.04.2003, 13.07.2003, 26.06.2004, clearly reveal the cordial relationship between the parties till 2005. The trial Court failed to note that both the parties attended function on 16.09.2005 and 24.10.2005 and prayed the order to be set aside.

7. On the side of the appellant, it is further stated that the respondent - husband has re-married and he is living with the second wife and they are having children and it is submitted that the relief sought for will not solve the problem and prayed that her right of maintenance should not be curtailed.

8. On the side of the respondent, it is admitted that the respondent-husband got second marriage and he is living with the second wife and they got children.

9. Considering the submissions of both side counsel, it is seen that the respondent-husband got married and he is now living with the second wife and their children. Setting aside the order of the trial Court will be of no use to the appellant herein.



10. In the above circumstances, the appellant - wife is at liberty to claim maintenance from the respondent - husband. With the above observation, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (CS II)

/ /2021

Sub Assistant Registrar (CS)

Is

To

1. The Principal District Judge,
Kanniyakumari at Nagercoil.

2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2c)

C.M.A. (MD) No. 392 of 2013
16.06.2021

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