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C.M.P. No. 6551 of 2021
in
C.M.A. No. 3341 of 2014

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in
C.M.A. No. 3341 of 2014

S. VAIDYANATHAN,J.

AND

C. SARAVANAN,J.

The present civil miscellaneous petition has been filed to recall the order dated 14.02.2019 made in C.M.A. No. 3341 of 2014 and dispose of the said C.M.A. on merits and in accordance with law.

2. The respondent herein had filed M.O.P. No. 155 of 2005 under Section 13(1)(ia) and (ib) of the Hindu Marriage Act, 1955 before the Family Court, Puducherry to dissolve the marriage of the respondent with the appellant herein by way of decree of divorce. By order dated 01.09.2014, the petition filed by the respondent herein was allowed on the ground of cruelty and desertion granting the relief of dissolution of marriage by the Family Court, Puducherry. Challenging the said order, the wife/appellant herein filed the Civil Miscellaneous Appeal.

3. It is also pertinent to note that subsequently, a suit in O.S. No.



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29 of 2017 was filed by the respondent herein before the Family Court, Puducherry, for partition and separate possession of respondent's share in the suit property and for mesne profits. As it was found that E.P. No. 3/2011 with regard to payment of arrears of maintenance ordered in I.A. No. 1833/2007 in M.O.P. No. 155/2005 filed by the respondent was also pending, the suit as well as E.P. No. 3/2011 were referred to Mediation Centre, Puducherry and both parties participated in the mediation process. During the course of mediation, the parties settled their disputes amicably and arrived at a settlement with regard to division of the suit properties and arrears of maintenance. The suit came to be decreed in terms of the mediation agreement executed between the parties.

4. During the pendency of C.M.A., by proceedings dated 30.10.2018, this Court had taken note of the settlement arrived at between the parties with regard to sharing of properties and on the request made by either side, referred the matter to the Mediation Centre, Puducherry to explore the possibility of settlement between the parties as regards divorce proceedings as well. On 14.02.2019, when the C.M.A. was taken up for hearing, the following order came to be passed:



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"When the matter is taken up for hearing today, the counsel appearing for the appellant submitted that the matter has been resolved in the mediation conducted before the Lok Adalat, Puducherry in O.S.No. 29 of 2017 and E.P. No. 03 of 2011. A copy of the mediation agreement signed by the parties dated 09.04.2018 is also produced before us.

In view of the above, the decree of divorce granted by the Court below stands set aside, as the parties are living under the same roof. The appeal and revision stands closed....."

To recall the said order, the present C.M.P. has been filed.

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AND
C. SARAVANAN,J.
nv

5. Both parties submitted that the lis between the parties with regard to granting of divorce and restoration of relationship by setting aside the order of the Family Court, Puducherry is still in vogue and hence, the civil miscellaneous appeal has to be restored.

6. Taking note of the submissions of the parties and that the parties have not arrived at any settlement with regard to divorce, the Civil Miscellaneous Appeal is still alive. Hence, the order dated 14.02.2019 is recalled and the Civil Miscellaneous stands restored to the file of this Court to be heard on merits. The C.M.P. is ordered accordingly.



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(S.V.N.J.) (C.S.N.J.)

30.11.2022

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