



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2022

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A. (MD) No. 726 of 2021

Johnson Rajkumar ... Appellant / Petitioner

Vs.

Savariamammal ... Respondent / Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 55 of the Indian Divorce Act against the order and decretal order dated 28.04.2021 made in I.D.O.P. No. 84 of 2020 on the file of the III Additional District Judge, Thanjavur at Pattukottai.

For Appellant : Mr.P.Santhoshkumar
For Respondent : Mr.V.Sasi Kumar

J U D G M E N T

This Civil Miscellaneous Appeal has been filed as against the order and decretal dated 28.04.2021 passed in I.D.O.P. No. 84 of 2020 by the III Additional District Court, Thanjavur at Pattukottai.

2. By consent of both parties, this Civil Miscellaneous Appeal is taken up for final disposal. The parties are referred to as per their ranks before the Trial Court.

3. The petitioner / husband filed a petition in I.D.O.P. No.14 of 2019 before the learned Principal District Judge, Pudukottai, for dissolution of marriage, on the ground of cruelty. Thereafter, the respondent / wife has filed Transfer Civil Miscellaneous Petition to transfer the said I.D.O.P. No.14 of 2019 to the learned III Additional District Judge, Thanjavur at Pattukottai before this Court. This Court, on 30.04.2019, transferred the said IDOP to the learned III Additional District Judge, Thanjavur at Pattukottai. It was re-numbered as I.D.O.P. No. 84 of 2020. However, the respondent / wife has not appeared before the Court and hence, she was set ex-parte.

4. The learned III Additional District Judge, Thanjavur at Pattukottai has dismissed I.D.O.P. No. 84 of 2020 on the ground that no necessary document was filed to substantiate the plea towards medical expenses of the fertility.



5. The learned counsel for the appellant / husband would contend that the respondent / wife has not appeared before the trial Court and hence, she was set ex-parte.

6. No document has been filed to establish the claim of the appellant. However, after transfer of the said I.D.O.P to the Pattukottai Court, the respondent was not served with any notice. Hence, in order to give an opportunity to the respondent / wife and the petitioner / husband to agitate the case on merits, this Civil Miscellaneous Appeal is allowed on payment of cost for a sum of Rs.5,000/- (Rupees Five Thousand Only) to the learned counsel for the respondent / wife, at Madurai. The said amount is to be paid within a period of three weeks from the date of receipt of a copy of this order. The order passed in I.D.O.P. No. 84 of 2020 dated 28.04.2021 is set aside and the matter is remitted back to the learned III Additional District Judge, Thanjavur at Pattukottai to dispose of the case on merits within a period of three months by giving an opportunity. The respondent / wife is at liberty to file counter statement and other documents. It is open to both sides to file documents at their choice and the trial is to be completed within a period of three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The III Additional District Judge,
Thanjavur at Pattukottai.

COPY TO:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai. (2 Copies)

+1 CC to M/s.V.SASI KUMAR, Advocate (SR-9586[F] dated 02/03/2022)

C.M.A. (MD) No. 726 of 2021
28.02.2022

SVS(CO)

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