



C.M.A.No.872 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE D.BHARATHACHAKRAVARTHY**

C.M.A.No.872 of 2017

N.Senthilkumar

... Appellant

Vs.

S.Krishnaveni

... Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act against the decree and judgment dated 10.11.2016 in HMOP.NO.41 of 2014 on the file of Family Court, Udagamandalam.

For Appellant : Mr.B.Ravi

For Respondent : No appearance

J U D G M E N T

This appeal is directed against the judgment and decree of the Family Court, Udagamandalam dated 10.11.2016 made in HMOP.No.41 of 2014, in and by which, the petition filed by the respondent/wife for divorce under Sections 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, was allowed.

2. The respondent/wife filed the Original Petition alleging that owing to their employments, after the birth of the child, the petitioner



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and the respondent were moving in different directions. The respondent did not even care to visit the child or tried to trace out the whereabouts of the petitioner and the child. This apart, it is her contention that she was ill treated and therefore, she was forced to live with her parents. Hence, the petition for divorce.

3. The appellant herein resisted the petition for divorce on the ground that it is only the respondent wife who was behaving indifferently and was dancing to the tune of her mother. The respondent/wife only left the matrimonial home and went to her parents' house.

4. After trial, the trial Court found that even in the cross examination, the appellant himself had admitted that for the past 10 years, he neither maintained his wife nor did he know about the whereabouts of his wife or the child. This apart, even the other witnesses have stated that both of them have been living separately for long number of years, and hence, allowed the original petition granting a decree of divorce.

5. Learned counsel for the appellant would submit that even the other witnesses have not categorically blamed the appellant for separation and therefore, it would not amount to desertion on the part of



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the appellant. Learned counsel would further submit that it is only due to his wife's own making to leave the matrimonial home to live with her parents. Thus, there is no ground made out for divorce.

6. We have considered the submissions made by the learned counsel for the appellant and perused the material records of the case. The point for consideration in this case is whether the respondent wife has made out a case for dissolution of the marriage?

7. The petition for divorce was made on the grounds of cruelty and desertion. When the appellant/husband was cross examined, he categorically admitted that he did not know the whereabouts of the wife and the child for the past 10 years. Thus, the case of desertion is made out. This apart, after considering the oral evidence and all the documents on record, the learned Family Judge had come to the conclusion that the wife was also treated with cruelty and such finding based on the appreciation of evidence, cannot be upturned in the present appeal. Admittedly, the parties are living separately for the past 16 years from 2007 onwards. Admittedly, the appellant did not even ascertain the name of the child. We, therefore, agree with the findings of the trial Court. The appeal is without any merits and therefore, the relief sought for by the



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appellant cannot be granted. Accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

(J.N.B,J.) (D.B.C, J.)
05.06.2023

Index : Yes / No
Internet : Yes
vsi

To
The Family Court, Udagamandalam.



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and
D.BHARATHA CHAKRAVARTHY, J.

vsi

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