



C.M.A(MD)No.361 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**C.M.A(MD)No.361 of 2021
and
C.M.P(MD)No.2966 of 2021
and
C.M.P(MD)No.178 of 2023**

P.Pramila

...Appellant

.VS.

J.Parthasarathy

...Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 to set aside the fair and decreetal order, dated 05.12.2018 passed in H.M.O.P.No.189 of 2015 on the file of the Family Court, Tiruchirappalli insofar as the appellant is concerned.

For Appellant :Mr.C.Jeyaprakash

For Respondent :Mr.G.D.Manikandan



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JUDGMENT

[Judgment of the Court was made by **RMT.TEEKAA RAMAN.,J.**]

Wife is the appellant herein. The respondent / husband filed H.M.O.P.No.189 of 2015 under Section 13(1)(ia) of Hindu Marriage Act before the Family Court, Trichirappalli for dissolution of marriage solemnized between the parties on 11.09.2006.

2. The date of marriage namely 11.09.2006 and the solemnization of marriage and living together for sometime are not in dispute. On 01.01.2011 a female child was born between the parties and the husband filed above H.M.O.P.No.189 of 2015 alleging certain fact as a cruelty and also alleged that there is a desertion on the part of the wife in living the matrimonial home without reasonable cause. She used to have conversation with the third person and it is in the nature of adultery, but the trial Court was not taken the ground of adultery for divorce.



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3. The appellant / wife filed counter statement before the trial Court and the allegations levelled against the wife are domestic allegations.

4. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondent.

5. Considering both oral and documentary evidence, the Family Court Judge has granted decree of divorce and hence, the appellant has filed the present appeal.

6. Before the Family Court, the respondent / husband was examined as P.W.1 and marked Ex.P1 to Ex.P3. The appellant / wife has not entered into the witness box and has not marked any documents. The Family Court Judge, based upon the chief-examination and the documents filed and in the absence of any denial with regard to certain allegations made against the wife and the wife has not entered into the witness box, has granted the decree of divorce. We also find that the wife has filed M.C.No.144 of 2015 before the Additional Mahila Court,



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Trichirappalli seeking maintenance and the same was ordered on 23.01.2018.

7. The learned counsel appearing for the respondent / husband would submit that as against the said award of maintenance, the husband has filed a revision before the District Court and the same was numbered. He would further stated that H.M.O.P.No.189 of 2015 filed by the husband was decreed on 05.12.2018. After the dissolution of marriage, the respondent / husband contracted the second marriage on 24.05.2019 and thereafter, the wife has presented the appeal papers on 01.10.2019 and the papers have been returned for certain defects and again it was represented along with condone delay petition. After condonation of the delay, the main appeal is taken up.

8. After perused the discussion made by the Family Court Judge and also taking note of the fact that the appellant / wife has not entered into the witness box and adduced any rebuttal evidence and further more nothing was elicited in the cross-examination of P.W.1, we find that the decree of dissolution of marriage granted by the Family Court Judge, Trichirappalli is just and proper and does not warrant any interference.



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9. Accordingly, this Civil Miscellaneous Appeal is dismissed. It is open to the parties in respect of the maintenance to agitate before the appropriate Court. No costs. Consequently, connected miscellaneous petitions are closed.

[T.K.R.,J.]

[P.B.B.,J.]

09.11.2023

Index: Yes/No

Internet: Yes/No

NCC: Yes/No

am

To

The Family Court,

Tiruchirappalli.



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RMT.TEEKAA RAMAN,J.
AND
P.B.BALAJI,J.

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JUDGMENT MADE IN
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