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C.M.S.A.No.27 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.S.A.No.27 of 2011

Kokila

... Appellant

Vs.

R.Panneerselvam

... Respondent

PRAYER: Civil Miscellaneous Second Appeal filed under Section 28 of the Hindu Marriage Act, 1955 r/w. Section 100 of C.P.C. against the fair and final order dated 01.03.2011 made in C.M.A.No.52 of 2010 on the file of the Additional District Court, Fast Track Court No.4, Bhavani, reversing the fair and final order dated 24.06.2010 made in H.M.O.P.No.17 of 2008 on the file of the Sub Court, Bhavani.

For Appellant : Ms.Zeenath Begum
for Mr.V.Rajesh

For Respondent : Mr.P.Sesubalan Rajan

JUDGMENT

This Civil Miscellaneous Second Appeal has been filed, challenging the order dated 01.03.2011 passed by the Additional District Court, Fast Track Court No.4, Bhavani passed in C.M.A.No.52 of 2010 under which the lower Appellate Court had reversed the findings of the Trial Court and had



granted divorce to the respondent against the appellant in this appeal.

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2. The respondent had filed H.M.O.P.No.17 of 2008 on the file of the Sub Court, Bhavani against the appellant, seeking for divorce on the ground of cruelty and desertion. The Sub Court, Bhavani by its order dated 24.06.2010 passed in H.M.O.P.No.17 of 2008, dismissed the petition filed by the respondent, seeking for divorce on the ground that there was no serious dispute between the appellant and the respondent and there was also a possibility of reunion.

3. Aggrieved by the findings of the Sub Court, Bhavani in H.M.O.P.No.17 of 2008, the respondent herein, who is the husband had filed an appeal before the Additional District Court, Fast Track Court No.4, Bhavani in C.M.A.No.52 of 2010.

4. The lower Appellate Court viz., Additional District Court, Fast Track Court No.4, Bhavani, reversed the findings of the Trial Court and allowed the appeal filed by the respondent herein (husband) in C.M.A.No.52 of 2010 and granted divorce in his favour. Aggrieved by the same, the wife



(the appellant herein) has preferred this appeal.

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5. The following facts are not in dispute:

The appellant and the respondent got married on 16.09.1996. Out of their wedlock they have two children. One daughter, who was born on 27.11.1997 and other son born on 17.05.2003. Both have attained majority by the lapse of time. Admittedly, the appellant and the respondent are in separation from the year 2007. The husband claims that the wife left the matrimonial home in the year 2005, whereas the wife states that she left the matrimonial home only in the year 2007.

6. The lower appellate Court under the impugned order dated 01.03.2011 has categorically given a finding that there is no chance of reunion between the parties. The lower appellate Court has also observed that the Trial Court ought to have attempted to compromise between the parties for the purpose of reuniting them. It is more than 16 years since the parties were separated. Further, their children have also attained majority. It is also informed by the learned counsel for the respondent that one of the



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ABDUL QUDDHOSE. J.,

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children has got married and has also begotten a child. At this stage, the question of interfering with the findings of the lower appellate Court, which is the subject matter of challenge in this appeal, does not arise and it will not be in the interest of both the parties.

7. For the foregoing reasons, there is no merit in this appeal. Accordingly, this civil miscellaneous second appeal is dismissed. No Costs.

05.04.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1. The Additional District Court, Fast Track Court No.4, Bhavani.
2. The Sub Court, Bhavani.
3. The Section officer, Record Section, High Court of Madras.

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