





WEB COPY

2. The facts leading to filing of this Civil Miscellaneous Appeal are as follows:-

The marriage between the appellant and respondent was solemnized on 16/4/2008 at St. Antony's Church, Avadi, as per Christian rites and customs, with the help and guidance of the sister's husband of the respondent Mr.Chellaswamy. After marriage, they lived together at Kovillpathagai, Avadi, Chennai. When the appellant found that the respondent is suffering from mental disorder, sister's husband of the respondent informed the appellant that the respondent is taking treatment for attack of evil spirit. Later, the appellant and respondent were blessed with a male child on 28/3/2009. When difference of opinion arose between the appellant and respondent, marriage has broken down irretrievably. On 6/12/2009, the respondent left the matrimonial home and went to her parents house. Hence, the appellant filed I.D.O.P.No.4 of 2011 on the file of the Principal District Judge, Tiruvallur. Vide, order dated 6/10/2017, the learned Principal District Judge, Tiruvallur had dismissed the petition. Being aggrieved, the appellant has come forward with the instant appeal.



WEB COPY

3. Heard Mr.Amar D.Pandiya, learned counsel for the appellant.

Though the name of the respondent is printed in the cause list, none appeared on behalf of the respondent.

4. The learned counsel appearing for the appellant submitted that the respondent has no intention to join the appellant in the matrimonial home. Even after the dismissal of divorce petition filed by the appellant, the respondent has neither filed any application for restitution of conjugal rights nor took any steps for reunion.

5. Perused the materials available on record.

6. Admittedly, the main ground raised by the appellant is that the respondent is not in sound mind. To substantiate his case, the appellant has not produced any document. Further, there is no evidence available to show that the respondent is incapable of discharging her day-to-day activities. The claim of the appellant would go against him only on the fact that male child was born. There might be hiccups in the family, but that itself cannot lead to a presumption that the wife is in unsound mind.



C.M.A.No.3347 of 2017

WEB COPY

7. A cursory glance of the materials would show that the respondent has categorically stated in her evidence that she is ready and willing to subject herself for medical examination, but the petitioner has not even made such a statement. In such a view of the matter, this Court is of the considered view that there is no reason to believe that the appellant has made out a case against the respondent and this Court does not find any reason to interfere with the finding given by the Principal District Judge, Tiruvallur.

8. In the result, this Civil Miscellaneous Appeal is dismissed and the order passed by the Principal District Judge, Tiruvallur in I.D.O.P.No.4 of 2011 is confirmed. No costs.

4/11/2024

mvs.

Index : Yes / No

Neutral Citation: Yes/No

To

1. The Principal District Judge, Tiruvallur.



WEB COPY



C.M.A.No.3347 of 2017

M.DHANDAPANI,J

mvs.

C.M.A.No.3347 of 2017

4/11/2024