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C.M.A.(MD)NO.1481 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE P. VADAMALAI

CMA(MD)No.1481 of 2024

R. Vinitha

... Appellant/Petitioner

Vs.

G. John Kennady

... Respondent

Prayer: Civil Miscellaneous Appeal is filed under section 19 of the Family Courts Act, to set aside the order and Decree passed in I.D.O.P. No.862 of 2021 on the file of the Family Court, Nagercoil dated 31.03.2023, by allowing this Civil Miscellaneous appeal.

For Appellant : Mr. B. Christopher

For Respondent: Mr. P.T. Ramesh Raja

* * *

ORDER

Heard both sides.



WEB COURT

2. G.John Kennady and R.Vinitha got married to each other on 08.06.2011 as per Christian rites and customs at St.Michael's Church, Kumarapuram at Kanyakumari District. No children were born through the wedlock. Difference of opinion arose between the parties. Vinitha filed I.D.O.P. No. 862 of 2021 on the file of the Family Court, Nagarcoil under section 10(1)(x) of the Divorce Act, 1869. The OP was dismissed vide order dated 31.03.2023. Questioning the same, Vinitha filed this appeal under Section 19 of the Family Courts Act 1984.

3. During the pendency of this appeal, the parties negotiated between themselves and it has been agreed that the marriage can be dissolved by mutual consent under section 10A of the Divorce Act, 1869. Section 10A of the act reads as follows;

“10A. Dissolution of marriage by mutual consent.—(1) Subject to the provisions of this Act and the rules made thereunder, a petition for dissolution of marriage may be presented to the District Court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Indian Divorce (Amendment) Act, 2001 (51 of 2001), on the ground that they have been living separately for a period of two years or



more, that they have not been able to live together and they have mutually agreed that the marriage should be dissolved.

(2) On the motion of both the parties made not earlier than six months after the date of presentation of the petition referred to in sub-section (1) and not later than eighteen months after the said date, if the petition is not withdrawn by both the parties in the mean time, the Court shall, on being satisfied, after hearing the parties and making such inquiry, as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree declaring the marriage to be dissolved with effect from the date of decree.”

4. The parties are living separately for more than seven years.

We are therefore of the view that the cooling-off period of six months can be waived.

5. The appellant R. Vinitha clearly states that she has no claim whatsoever against the respondent. The respondent is also agreeable for dissolving the marriage by mutual consent. A memo has also been filed. It was signed by both the parties. We are satisfied that the marriage between the parties has irretrievably broken down. It can be dissolved through mutual consent. Accordingly, invoking Section 10A of the



Divorce Act 1869, the marriage solemnised between R.Vinitha and G.John Kennady on 08.06.2011 at St. Michael's Church, Kumarapuram falling under Manalikkarai Parish in Kumarapuram Village, Kanyakumari District is dissolved by a decree of divorce. This Civil Miscellaneous Appeal is disposed of accordingly. No costs.

(G.R.SWAMINATHAN, J.) & (P.VADAMALAI, J.)
28th November 2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

PMU

To:

The Judge,
Family Court,
Nagarcoil.



WEB COPY



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