

Dr Thomas vs Nadine

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Court : Kerala

Decided On : Jun-30-2022

Judge : Honourable Mr. Justice a.Muhammed Mustaque,Honourable Mrs. Justice Sophy Thomas

Appeal No. : RP/534/2022

Appellant : Dr Thomas

Respondent : Nadine

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SOPHY THOMAS
THURSDAY, THE 30TH DAY OF JUNE 2022 / 9TH ASHADHA, 1944
RP NO. 464 OF 2022 AGAINST THE COMMON JUDGMENT IN
MAT.APPEAL NO.36/2017 AND CONNECTED CASES DATED
28.02.2022 REVIEW PETITIONER/S: DR.THOMAS P.O, AGED 52
YEARS, S/O.P.T.OUSEPH, 12 B CROWN, TRINITY, EDAPPALLY,
COCHIN - 682024. BY DR.THOMAS P.O(PARTY-IN-PERSON)
RESPONDENT/S: NADINE VINCENT, W/O. THOMAS, 44 YEARS, 6 B
GOLDEN RESIDENCY, S.A ROAD, KADAVANTHRA - 682018. BY

ADVS. M.P.RAMNATH BEPIN PAUL THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 30.06.2022, ALONG WITH RP.535/2022 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: R.P.No.464/2022 & conn. cases 2

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SOPHY THOMAS THURSDAY, THE 30TH DAY OF JUNE 2022 / 9TH ASHADHA, 1944 RP NO. 535 OF 2022 AGAINST THE COMMON JUDGMENT IN MAT.APPEAL NO.1057/2016 AND CONNECTED CASES DATED 28.02.2022

REVIEW PETITIONER/S: DR.THOMAS, AGED 52 YEARS, S/O.P.T.OUSEPH, 12 B CROWN, TRINITY, EDAPPALLY, COCHIN - 682024. BY DR.THOMAS P.O(PARTY-IN-PERSON) RESPONDENT/S: NADINE, W/O. THOMAS, 44 YEARS, 6 B GOLDEN RESIDENCY, S.A ROAD, KADAVANTHRA - 682018. BY ADVS. M.P.RAMNATH BEPIN PAUL THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 30.06.2022, ALONG WITH RP.464/2022 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: R.P.No.464/2022 & conn. cases 3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SOPHY THOMAS THURSDAY, THE 30TH DAY OF JUNE 2022 / 9TH ASHADHA, 1944 RP NO. 536 OF 2022 AGAINST THE COMMON JUDGMENT IN MAT.APPEAL NO.1052/2016 AND CONNECTED CASES DATED 28.02.2022

REVIEW PETITIONER/S: DR.THOMAS, AGED 52 YEARS, S/O.P.T.OUSEPH, 12 B CROWN, TRINITY, EDAPPALLY, COCHIN -

682024. BY DR.THOMAS P.O(PARTY-IN-PERSON) RESPONDENT/S: NADINE, W/O. THOMAS, 44 YEARS, 6 B GOLDEN RESIDENCY, S.A ROAD, KADAVANTHRA - 682018. BY ADVS. M.P.RAMNATH BEPIN PAUL THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 30.06.2022, ALONG WITH RP.464/2022 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: R.P.No.464/2022 & conn. cases 4

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE & THE HONOURABLE MRS. JUSTICE SOPHY THOMAS THURSDAY, THE 30TH DAY OF JUNE 2022 / 9TH ASHADHA, 1944 RP NO. 534 OF 2022 AGAINST THE COMMON JUDGMENT IN MAT.APPEAL NO.1056/2016 AND CONNECTED CASES DATED 28.02.2022

REVIEW PETITIONER/S: DR.THOMAS, AGED 52 YEARS, S/O.P.T.OUSEPH, 12 B CROWN, TRINITY, EDAPPALLY, COCHIN - 682024. BY DR.THOMAS P.O(PARTY-IN-PERSON) RESPONDENT/S: NADINE, W/O. THOMAS, 44 YEARS, 6 B GOLDEN RESIDENCY, S.A ROAD, KADAVANTHRA - 682018. BY ADVS. M.P.RAMNATH BEPIN PAUL THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 30.06.2022, ALONG WITH RP.464/2022 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: R.P.No.464/2022 & conn. cases 5

ORDER

[RP Nos.464/2022, 535/2022, 536/2022, 534/2022]

A.Muhamed Mustaque, J.

We refer to the parties by name for clarity in these review petitions. Dr.Thomas who was the appellant in Mat.Appeal No.36/2017 has come up with these review

petitions, mainly aggrieved by the divorce granted to Nadine. According to him, no cruelty has been established. He particularly points out to the domestic violence case and the withdrawal of the same by Nadine. According to him, the domestic violence case has been withdrawn as Nadine had no cause of action or materials to prove the allegations of domestic violence against him. It is submitted that withdrawal of domestic violence case as against him would itself establish that there was no cruelty. According to Dr.Thomas, in Christian faith, souls united by God cannot be separated by the court and therefore, the court could not have granted relief to Nadine by granting divorce. R.P.No.464/2022 & conn. cases 6

2. Mere withdrawal of the domestic violence case

itself will not prevent the wife from establishing the grounds of divorce in an appropriate forum in accordance with law. The Domestic Violence Act contains the provisions to take measures in certain situations where the intervention of the Magistrate is required to protect a woman. It is intended to protect a woman, rather than to adjudicate upon the acts complained of. The Magistrate is called upon to take appropriate measures to protect the women who suffers domestic violence. In no way the Magistrate is called upon to adjudicate or decide finally on the allegations and objections raised before him. In such circumstances, we are of the view that merely because the domestic violence case was not prosecuted, it will not absolve him of the allegations of cruelty, alleged against him before the Family Court. Therefore, we overrule this objection. We are not persuaded in his argument to review the judgment rendered on fact-finding. In regard to the subsequent objection, that being a Christian, the marriage cannot be separated, we remind the review petitioner that it is a secular law that governs the R.P.No.464/2022 & conn. cases 7 parties and the grounds of divorce urged and the relief granted are in accordance with the secular law. In secular law where a Christian follower is allowed to seek divorce, then such follower cannot be heard to say that, the court cannot separate the souls united by God. We find there is no error apparent in the judgment warranting invocation of the review power. Hence, these review petitions are dismissed. No order as to costs. Sd/- A.MUHAMED MUSTAQUE JUDGE Sd/- SOPHY THOMAS JUDGE In R.P.No.464/2022 & conn. cases 8 APPENDIX OF RP 464/2022 PETITIONER'S ANNEXURES: ANNEXURE

B9 A TRUE COPY OF THE DEPOSITION PW1 (REVIEW RESPONDENT) BEFORE CJM COURT, ERNAKULAM IN DOMESTIC VIOLENCE CASE MC ANNEXURE B10 A TRUE COPY OF DEPOSITION OF PW2(MOTHER IN LAW) IN DOMESTIC VIOLENCE CASE MC1/2012 DATED 17.06.2016. ANNEXURE B11 A TRUE COPY OF THE ORDER OF CC CASE NO. COURT ERNAKULAM DATED 27.12.2016. ANNEXURE B12 A TRUE COPY OF ORDER OF HON'BLE HIGH COURT IN CONNECTION WITH CUSTODY OF CHILDREN IN OP(FC) NO. 373/2014 DATED 30.07.2014. ANNEXURE B13 A TRUE COPY OF THE ORDER OF MAT APPEAL CONNECTION WITH CUSTODY OF CHILDREN. R.P.No.464/2022 & conn. cases 9 APPENDIX OF RP 534/2022 PETITIONER'S ANNEXURES: ANNEXURE B9 A TRUE COPY OF THE DEPOSITION PW1 (REVIEW RESPONDENT) BEFORE CJM COURT, ERNAKULAM IN DOMESTIC VIOLENCE CASE MC ANNEXURE B10 A TRUE COPY OF DEPOSITION OF PW2(MOTHER IN LAW) IN DOMESTIC VIOLENCE CASE MC1/2012 DATED 17.06.2016. ANNEXURE B11 A TRUE COPY OF THE ORDER OF CC CASE NO. COURT, ERNAKULAM DATED 27.12.2016. ANNEXURE B12 A TRUE COPY OF ORDER OF HON'BLE HIGH COURT IN CONNECTION WITH CUSTODY OF CHILDREN IN OP(FC) NO. 373/2014 DATED 30.07.2014. ANNEXURE B13 A TRUE COPY OF THE ORDER OF MAT APPEAL CONNECTION WITH CUSTODY OF CHILDREN. R.P.No.464/2022 & conn. cases 10 APPENDIX OF RP 535/2022 PETITIONER'S ANNEXURES: ANNEXURE B9 CERTIFIED COPY OF THE DEPOSITION PW1 (REVIEW RESPONDENT) BEFORE CJM COURT, ERNAKULAM IN DOMESTIC VIOLENCE CASE MC ANNEXURE B10 CERTIFIED COPY OF DEPOSITION OF PW2(MOTHER IN LAW) IN DOMESTIC VIOLENCE CASE MC1/2012 DATED 17.06.2016. ANNEXURE B11 CERTIFIED COPY OF THE ORDER OF CC CASE NO. 17/2016 IN MC 1/2012 WITHDRAWN FROM CJM COURT, ERNAKULAM DATED 27.12.2016. ANNEXURE B12 CERTIFIED COPY OF ORDER OF HON'BLE HIGH COURT IN CONNECTION WITH CUSTODY OF CHILDREN IN OP(FC) NO. 373/2014 DATED 30.07.2014. ANNEXURE B13 CERTIFIED COPY OF THE ORDER OF MAT APPEAL 1052/2016 DATED 31.05.2017 IN CONNECTION WITH CUSTODY OF CHILDREN. R.P.No.464/2022 & conn. cases 11 APPENDIX OF RP 536/2022 PETITIONER'S ANNEXURES: ANNEXURE B9 A TRUE COPY OF THE

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