

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 5201 OF 2010

K.SHYLAJA

Appellant(s)

VERSUS

K.SOMANATHAN

Respondent(s)

O R D E R

The appeal is directed against judgment dated 08.04.2009 passed of the High Court by which it set aside the order passed by the Family Court and granted decree of divorce on the ground of desertion.

Today when the matter came up before us, we have heard the learned counsel for the appellant and the learned counsel for the respondent.

Learned counsel for the appellant submits that after the impugned judgment, the respondent has remarried and two children have born out of the wedlock. This fact is not in the aforesaid dispute.

Learned counsel for the appellant takes exception to the finding that the appellant deserted her husband.

We would notice, at any rate, parties have been living separately since the year 2000. In the circumstances which we have projected, there is no possibility of the parties living together. In the facts of this case, therefore, we would only modify the judgment impugned before us, i.e.,

while not interfering in the actual decision, we think this is a fit case, where the marriage is to be considered as having broken down irretrievably. We supplant the ground of desertion with the ground of the marriage being irretrievably broken down. In the circumstances of this case, we notice that what has been ordered to be paid under the impugned order is a sum of Rs.1 lakh. Apart from the aforesaid sum, we are of the view that the interest of justice requires that the respondent be directed to pay a sum of Rs.2 lakhs to his son from the marriage with the appellant. Accordingly, we direct that the respondent shall pay a sum of Rs. 2 lakhs within a period of three months by Demand Draft to his son. This is apart from the appellant being permitted to withdraw the entire amount which has been deposited as per the orders of the High Court and which is said to be lying in the Fixed Deposit along with accrued interest. Subject to the said modification, the appeal will stand dismissed.

....., J.
[K.M. JOSEPH]

....., J.
[S. RAVINDRA BHAT]

New Delhi;
July 22, 2021.

ITEM NO.101 Court 12 (Video Conferencing) SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 5201/2010

K.SHYLAJA

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VERSUS

K.SOMANATHAN

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Date : 22-07-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MR. JUSTICE S. RAVINDRA BHAT

For Appellant(s)

Mr. Senthil Jagadeesan, AOR
Ms. Sonakshi Malhan, Adv.
Ms. Mrinal Kanwar, Adv.

For Respondent(s)

Mr. A. Karthik, Adv.
Mr. Sajith. P, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is dismissed subject to the modification in
terms of the signed order.

(NIDHI AHUJA)
AR-cum-PS

(RENU KAPOOR)
BRANCH OFFICER

[Signed order is placed on the file.]