



WEB COPY



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19-08-2026

CORAM

THE HON'BLE MR JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MRS.JUSTICE M.D.SUMATHI

CMA(MD) No. 162 of 2022

Saravanan
S/o. Rajamani Vinayakarkoil Theru,
Avarangadu Village, Vellakurichi Post,
Thiruppasethi Via, Manamadurai Taluk,
Sivagangai District.

... Appellant / Respondent

Vs

Sathya
D/o. Karuppasamy, Keelakandani,
Vembakudi Salai, Keelakandani Post,
Sivagangai Taluk and District.

... Respondent / Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, to set aside the fair and decreetal order dated 22.10.2019 passed in HMOP.No.115 of 2018 by the Family Court, Sivagangai and allow this CMA.

For Petitioner(s) : Mr.S.Muthupandi
For Respondent(s): No appearance.

JUDGMENT

(Judgment of the Court was delivered by G.R.Swaminathan J.)

The respondent in H.M.O.P.No.115 of 2018 on the file of the Family Court, Sivagangai, is the appellant before us.



2. Though the respondent herein has been served and her name is printed in the cause list, she has not chosen to enter appearance.

3. The marriage between the parties took place on 02.07.2009 as per the Hindu rites and customs. No child was born through the said wedlock. The respondent herein filed H.M.O.P.No.115 of 2018 on the ground of cruelty as well as desertion. The appellant herein filed counter opposing the prayer. The respondent herein examined herself as P.W.1. The respondent's father was examined as P.W.2. One Jeyaraman was examined as P.W.3. Ex.P.1 to Ex.P.5 were marked on the side of the respondent herein. The appellant examined himself as R.W.1. No documentary evidence was adduced by him. After hearing both the parties and considering the evidence on record, the Court below granted the relief dissolving the marriage between the parties vide order dated 22.10.2019.

4. Assailing the same, this appeal has been filed.

5. The learned counsel for the appellant contended that the ground of cruelty pleaded by the respondent herein was not established and that therefore, the Court below erred in granting the decree of divorce.



6. We carefully considered the appellant counsel's contentions and went through the evidence on record.

7. The point that arises for consideration is whether the Court below was justified in granting the relief sought for by the wife.

8. It is not in dispute that the parties are remaining separate from each other since 2013. The HMOP itself was filed only in the year 2018. The Court below has also given a specific finding that for full five years preceding the institution of HMOP, the parties were separately residing.

9. The wife had marked Ex.P.4 and Ex.P.5. She had filed DVOP No.42 of 2014 seeking handing over of her jewellery and articles. In the said DVOP, the appellant herein filed counter undertaking to return the articles. However, during the cross examination before the Family Court, he conceded that he had not handed over the articles. This aspect of the matter has been fully captured in paragraph No.14 of the impugned order passed by the Family Court Judge. The learned Family Court Judge had given a specific finding that by not returning the articles that belong to the wife, the appellant had indeed committed cruelty.



10. The appellant as the husband was duty bound to maintain the wife. The appellant had not adduced any evidence to show that he had discharged this duty. It is true that he filed H.M.O.P.No.36 of 2014 for restitution of conjugal rights. The stand of the wife was that the HMOP was filed as a counterblast to her filing DVOP No.42 of 2014. Ultimately, H.M.O.P.No.36 of 2014 was dismissed.

11. Considering the long separation between the parties and the specific findings given by the Court below, we hold that the Court below was justified in granting the relief of divorce to the wife both on the ground of cruelty as well as desertion. The appeal filed against the impugned order is without any merit. The civil miscellaneous appeal stands dismissed. No costs.

(G.R.S.,J.) (M.D.S.,J.)
19-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

PMU



To:

The Judge,
Family Court,
Sivagangai.

Copy to:

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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**G.R.SWAMINATHAN, J.
AND
M.D.SUMATHI, J.**

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