



C.M.A.(MD)Nos.634 and 635 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.08.2026

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MRS.JUSTICE M.D.SUMATHI**

**C.M.A.(MD)Nos.634 and 635 of 2021
and
C.M.P.(MD)No.6126 of 2021**

C.M.A.(MD)No.634 of 2021:-

G.Velayutham

... Appellant

Vs.

V.Jegajothi Lakshmi

... Respondent

Prayer : Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, 1984, to set aside the fair and decretal order made in H.M.O.P.No.237 of 2018, dated 27.11.2020 on the file of the Family Court, Tirunelveli.

For Appellant : Mr.H.Arumugam

For Respondent : Mr.S.A.Ganapathyraman

C.M.A.(MD)No.635 of 2021:-

G.Velayutham

... Appellant



C.M.A.(MD)Nos.634 and 635 of 2021

Vs.

V.Jegajothi Lakshmi

... Respondent

Prayer : Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, 1984, to set aside the fair and decretal order made in H.M.O.P.No.281 of 2018, dated 27.11.2020 on the file of the Family Court, Tirunelveli.

For Appellant : Mr.H.Arumugam

For Respondent : Mr.S.A.Ganapathyraman

COMMON JUDGMENT

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

Heard both sides.

2.The appellant/Velayutham got married to the respondent/Jegajothi Lakshmi on 04.09.2008 as per Hindu rites and customs at Subham Thirumana Mandapam, Palayamkottai. A girl child was born on 05.04.2011. The marital relationship between the parties came under strain. The respondent/wife left the matrimonial home. The appellant filed H.M.O.P.No.285 of 2013 on the file of the Sub Court, Tambaram. It was transferred to the file of the Additional



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Sub Court, Tirunelveli and renumbered as H.M.O.P.No.4 of 2014. It was dismissed for default on 11.07.2017. Thereafter, the appellant filed H.M.O.P.No.281 of 2017 seeking dissolution of marriage on the ground of cruelty and desertion. In the meanwhile, the respondent filed H.M.O.P.No.237 of 2017 seeking restitution of conjugal rights. Both the HMOPs were taken up together. The respondent/wife examined herself as P.W.1 and two other witnesses were examined on her side. Exs.P1 to P7 were marked. The appellant/husband did not step into the witness box. No oral evidence was adduced. However, he marked Exs.R1 to R5. After hearing both the parties and perusing the evidence on record, the learned Trial Judge allowed H.M.O.P.No.237 of 2017 and dismissed H.M.O.P.No.281 of 2017 by a common order dated 27.11.2020. Aggrieved by the same, these civil miscellaneous appeals have been filed.

3.These appeals can be disposed of on a short ground. Velayutham resisted his wife's petition by filing a counter. He also sought a positive relief by seeking dissolution of his marriage. But he did not enter the witness box. It is well settled that where a party to the suit does



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not enter the witness box and state his own case on oath and does not offer himself to be cross examined by the other side, a presumption would arise that the case set up by him is not correct (vide ***Vidhyadhar vs Manikrao AIR 1999 SC 1441***). This principle will apply with greater force in matrimonial proceedings. In matrimonial proceedings, the party who seeks relief must enter the witness box and give testimony. Failure to do so will invite adverse inference. Because, it is the evidence of the party concerned which would be clinching. If according to the husband, the wife was guilty of cruelty, it is the husband who must speak about the same. The Court below chose to grant relief to the wife and deny the appellant only by taking note of his conduct in avoiding the witness box. The Court below cannot be faulted for having passed the order impugned in these appeals. We do not find any merit in these appeals. They stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.,) & (M.D.S. J.,)
11.08.2026

NCC : Yes/No
Index : Yes / No
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To:

The Family Court,
Tirunelveli.

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The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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and
M.D.SUMATHI, J.

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