



C.M.A.(MD)No.759 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.08.2026

CORAM

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

C.M.A.(MD)No.759 of 2021
&
C.M.P.(MD)Nos.6915 & 6916 of 2021

Agnes Rubia

... Appellant / Respondent

Vs.

A.Jenson Jegaraj

... Respondent / Petitioner

Prayer : Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, 1984, to allow the civil miscellaneous appeal and set aside the Judgment and decree dated 15.04.2021 passed in D.O.P.No.289 of 2019 on the file of the Family Court, Tirunelveli.

For Appellant : Mr.M.Antony Raja Durai

For Respondent : Mrs.M.Nivedhitha



C.M.A.(MD)No.759 of 2021

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JUDGMENT

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

The respondent in D.O.P.No.289 of 2019 on the file of the Family Court, Tirunelveli is the appellant herein.

2. The marriage between the appellant and the respondent was solemnized on 29.06.2015 at CSI St.Paul Church in Tirunelveli. A girl child was born through the wedlock on 17.10.2016. The relationship between the parties came under strain. The appellant herein appears to have left the matrimonial home along with the child. Hence, the respondent herein filed D.O.P.No.212 of 2018 seeking restitution of conjugal rights. It was allowed on 08.07.2019. Even thereafter, the appellant herein did not rejoin. Hence, the respondent filed D.O.P.No. 289 of 2019 on 03.10.2019 for dissolution of marriage under Section 10(1)(IX)(X) of the Divorce Act, 1869. The appellant herein filed counter controverting the averments set out in the petition. The court below framed the necessary issues. The respondent herein examined himself as P.W.1 and marked Ex.P1 to Ex.P8. The appellant examined herself as



C.M.A.(MD)No.759 of 2021

R.W.1. One Velusamy was examined as R.W.2. Ex.R1 & Ex.R2 were marked. After considering the evidence on record, the court below dissolved the marriage vide decretal order dated 15.04.2021 invoking the power under Section 37 of the Divorce Act. The respondent herein was directed to deposit a sum of Rs.10,00,000/- towards permanent alimony. It was made clear that only on such deposit, the order of dissolution would come into force. Aggrieved by the said order, this appeal has been filed.

3. After hearing the learned counsel on either side, we are more than satisfied that the matrimonial relationship between the parties has irrevocably broken down and that there is no possibility of reunion or reconciliation. In fact, the learned counsel for the appellant was focussing more on enhancing the amount of permanent alimony.

4. The learned counsel appearing for the respondent, on instructions, submitted that the respondent hails from the lower middle class and that only with great difficulty, he was able to mobilize a sum of Rs.10,00,000/- which was ordered to be paid by the Court below towards



C.M.A.(MD)No.759 of 2021

permanent alimony. The learned counsel for the respondent states that the respondent herein is not in a settled job and that his monthly income is also uncertain.

5. While we do appreciate the submissions made by the learned counsel for the respondent, we cannot lose sight of the fact that through the wedlock between the parties, a girl child was born. Child is aged about 11 years. In our view, a sum of Rs.10,00,000/- would be hardly sufficient to meet the needs of the appellant and her child. Section 37 of the Divorce Act, 1869 enables the Court to order permanent alimony where a decree of dissolution of the marriage is granted. The said provision envisages that while determining a gross sum of money, the Court should have regard to the financial condition of the parties as well as their conduct. A bare reading of the petition averments does not really make out a case for the case of cruelty. The allegations made against the appellant are not really that strong.

6. Be that as it may, the learned counsel for the appellant states that a sum of money that may now be ordered to be paid may be deposited in the name of the child. We are therefore of the view that in the interest of



C.M.A.(MD)No.759 of 2021

justice, it would be just and proper to direct the respondent herein to deposit a further sum of Rs.10,00,000/- in the name of the child in any nationalized bank. The appellant herein is permitted to withdraw the accrued interest once in three months. The child may withdraw the said amount after she attains majority. The order of the Court below is confirmed subject to the aforesaid modification. The respondent is given four months from today to make the aforesaid deposit. The Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.,) & (M.D.S. J.,)
12.08.2026

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

The Family Court,
Tirunelveli.

Copy to:

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



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C.M.A.(MD)No.759 of 2021

G.R.SWAMINATHAN, J.
and
M.D.SUMATHI, J.

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C.M.A.(MD)No.759 of 2021

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