



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. 798 of 2021

Muniyasamy
S/o.Karupaiah,
D.No.5/487,Ankayarkanni Colony,
K.Puthur,Madurai.

..Petitioner(s)

Vs

Manju @ Dhanalakshmi
D/o.Udayar, Mungil Thuraipattu,
Sangarapuram Taluk,Villupuram District.

..Respondent(s)

Prayer : Civil Miscellaneous Appeal filed under Section 28 of the Hindu Marriage Act, 1955, to allow the Civil Miscellaneous Appeal and set aside the Fair and Decretal order dated 19-11-2020 passed in H.M.O.P.No.75 of 2014 on the file of the Family Court, Madurai and consequently pass Decretal order granting Divorce and nullifying marriage solemnized on 23.05.2010 by Appellant and Respondent.

For Petitioner(s): Mr.K.K.Samy

For Respondent(s): Mr.P.Mahendran



JUDGMENT

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

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The unsuccessful petitioner is the appellant before us. The marriage between the appellant and the respondent was solemnised on 23.05.2010 at Vilupuram as per the Hindu rites and customs. A girl child, namely, Vanishri was born through the wedlock. The appellant filed H.M.O.P.No.75 of 2014 on the file of the family Court, Madurai for dissolution of his marriage. The respondent filed counter opposing the prayer. Based on the rival pleadings, the Court below framed the necessary issues. The appellant examined himself as P.W.1. Ex.P.1 to Ex.P.10 were marked. The respondent examined herself as R.W.1. A relative by name Veeralakshmi was examined. Ex.R.1 and Ex.R.2 were marked on her side. After hearing both the parties and considering the evidence on record, the learned trial Judge dismissed the OP vide order 19.11.2020. Questioning the same, this appeal has been filed.

2. The learned counsel for the appellant reiterated all the contentions set out in the grounds of appeal. We also heard the appellant in person. The learned counsel for the appellant pointed out that the parties are remaining separate since 2012 and that therefore, this Court may infer from the long separation between the parties as one constituting cruelty. He called upon this Court to set aside the impugned order and grant relief as prayed for. He added that the



appellant is willing to make some decent provision for the maintenance of the child.

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3. Per contra, the learned counsel for the respondent submitted that the impugned judgment is well reasoned and that it does not call for any interference.

4. We carefully considered the rival contentions and went through the evidence on record.

5. The question that calls for consideration is whether the marriage between the parties deserves to be dissolved by a decree of divorce on the ground of cruelty and long separation between them.

6. The appellant in his petition had claimed that his first marriage with one Pandiselvi was legally solemnised and his marriage with the respondent herein was his second marriage. But it has emerged from the evidence on record that the appellant after divorcing Pandiselvi, married one Velumani and that the said marriage was dissolved vide order dated 30.03.2009 in H.M.O.P.No.575 of 2008. In fact, the respondent in her counter had alleged that the petitioner had suppressed the factum of his second marriage with Velumani and that he had projected as if the marriage between them was their second marriage.

7. The Hon'ble Supreme Court in ***Ramjas Foundation V. UOI (2010) 14 SCC 38*** held as follows:-



“ 21. The principle that a person who does not come to the Court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in others Courts and judicial forums. The object underlying the principle is that every Court is not only entitled but is duty bound to protect itself from unscrupulous litigants who do not have any respect for truth and who try to pollute the stream of justice by resorting to falsehood or by making misstatement or by suppressing facts which have a bearing on adjudication of the issue(s) arising in the case.”

For having made the false averments that his marriage with the respondent was his second marriage when in fact it was his third marriage, the appellant has disentitled himself to grant any relief.

8. Be that as it may, the Court below had rightly found that the ground earlier pleaded by the appellant was not established. The appellant examined himself as P.W.1. No witness to corroborate his allegation of cruelty was examined. According to the appellant, the respondent was in the habit of repeatedly lodging complaints before the police as well the departmental authorities. However, no departmental official was examined. No summon was marked. From the counter averments, we infer that the intention of the respondent was only to effect reunion and nothing else.

9. Divorce cannot be granted for the asking. Marital misconduct on the



part of the respondent must be established. Since was not established, the Court below rightly negated the plea for divorce. We do not find any ground to interfere. This 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/ SKM

To:

The Judge,
Family Court,
Madurai.

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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