



C.M.A.(MD)No.1167 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.08.2026

CORAM

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

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G.Rajkumar

... Appellant

Vs.

R.Vijitha

... Respondent

Prayer : Civil Miscellaneous Appeal is filed under Section 19(1) of the Family Courts Act, to set aside the fair and decreetal order dated 12.10.2021 made in O.P.No.131 of 2020 on the file of Family Court, Sivagangai.

For Appellant : Mr.RM.Arun Swaminathan

For Respondent : Mr.S.Arun Prasanth

**JUDGMENT
(By G.R.Swaminathan, J.)**

The unsuccessful petitioner is the appellant before us. The marriage between the parties was solemnized on 07.02.2011 as per Hindu



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rites and customs. The parties were related to each other even before marriage. The respondent is none other than the maternal uncle's daughter of the appellant. The relationship between the appellant and the respondent was under strain. The respondent left the matrimonial home on 19.03.2019. Thereupon, the appellant filed O.P.No.131 out 2020 on the file of Family Court, Sivagangai seeking dissolution of his marriage with the respondent on the ground of cruelty. The appellant examined himself as P.W.1. His mother/Kamala was examined as PW2 and Exs.P1 to P3 were marked. The respondent neither filed any counter nor entered the witness box. Yet the Family Court by order dated 12.10.2021 dismissed to the OP. Aggrieved by the same, this civil miscellaneous appeal has been filed.

2.Vide order dated 11.08.2026 in C.M.A.(MD)Nos.634 and 635 of 2021 (G.Velayutham Vs. V.Jegajothi Lakshmi), we had held that in matrimonial matters, both the parties must enter the witness box and adduce evidence. Failure to do so may invite adverse inference. In the case on hand, the appellant herein had specifically pleaded cruelty. In support of his allegation, he examined not only himself but also his



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mother. The respondent neither controverted the allegations nor she entered the witness box. We are therefore of the view that the allegations made by the appellant must be taken at their face value and the matter should have been dealt with on that basis.

3.From stand taken by the respondent before us, we could clearly infer that the respondent is also not interested in continuing the marital relationship. She, however, made a request that she must be given some lump sum amount. The learned counsel appearing for the appellant submitted that the respondent has already filed a maintenance application and that it is being contested and the same is still pending.

4.The appellant is ready to give a lump sum amount so as to give a quietus to all the claims of the respondent. The appellant has offered to pay a sum of Rs.25,00,000/- by way of full and final settlement to the respondent within a period of three months from the date of receipt of a copy of this order. The respondent has also accepted the said sum.



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WEB COPY 5. Our attention is drawn to the decision of the Hon'ble Supreme Court reported in **2023 SCC Online Sc 497 (Shri Rakesh Raman Vs. Kavitha)**. The Hon'ble Supreme Court had held as follows:-

“20. ...
(xiv) *Where there has been a long period of continuous separation, it may fairly be concluded that the matrimonial bond is beyond repair.* 21. ... *We have no doubt that this relationship must end as its continuation is causing cruelty on both the sides. The long separation and absence of cohabitation and the complete breakdown of all meaningful bonds and the existing bitterness between the two, has to be read as cruelty under Section 13(1) (ia) of the 1955 Act. We therefore hold that in a given case, such as the one at hand, where the marital relationship has broken down irretrievably, where there is a long separation and absence of cohabitation (as in the present case for the last 25 years), with multiple Court cases between the parties; then continuation of such a ‘marriage’ would only mean giving sanction to cruelty which each is inflicting on the other. We are also conscious of the fact that a dissolution of this marriage would affect only the two parties as there is no child out of the wedlock.”*

When the parties are not in touch with each other for a long period, and



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when the respondent has not sought restitution, we can safely come to the conclusion that this would constitute cruelty.

6.In this view of the matter, the marriage between the appellant and the respondent solemnized on 07.02.2011 would stand dissolved on the appellant depositing a sum of Rs.25,00,000/- to the credit of O.P.No.131 of 2020 on the file of Family Court, Sivagangai. On such deposit, the respondent can withdraw the same. On such deposit, the decree of divorce now granted by this Court would come into force and M.C.No.27 of 2015 on the file of Judicial Magistrate, Singampunari will stand terminated.

7.This civil miscellaneous appeal is allowed accordingly. No costs.

(G.R.S. J.,) & (M.D.S. J.,)
20.08.2026

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

The Family Court,
Sivagangai.

Copy to:

- 1.The Section Officer, ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.
- 2.The Judicial Magistrate,
Singampunari.



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