

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07-09-2020

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and
THE HONOURABLE MR. JUSTICE C. SARAVANAN

Civil Miscellaneous Appeal No. 4381 and 4385 of 2019

S. Vijayakumar .. Appellant in both the appeals/ Respondent

Versus

Srividhya Krshna .. Respondent in both the appeals/ Petitioner

CMA No. 4381 of 2019:- Appeal filed under Section 19 of The Family Courts Act against the Fair and Decreetal Order dated 10.07.2019 passed in OP No. 2535 of 2017 on the file of Principal Family Court at Chennai.

CMA No. 4385 of 2019:- Appeal filed under Section 19 of The Family Courts Act against the Fair and Decreetal Order dated 10.07.2019 passed in I.A. No. 3953 of 2018 in OP No. 2535 of 2017 on the file of Principal Family Court at Chennai.

For Appellant : Mr. P. Ramesh Kumar
in both the appeals

For Respondent : Mr. A.E. Ravichandran
in both the appeals

COMMON JUDGMENT

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

Both these Civil Miscellaneous Appeals arise out of the common order dated 10.07.2019 passed by the Court below in (i) O.P. No. 2535 of 2017 and (ii) I.A. No. 3953 of 2018 in O.P. No. 2535 of 2017.

2. The aforesaid Original Petition was filed by the respondent/wife under Section 13 (1) (ia) and 27 of The Hindu Marriage Act, praying to dissolve the marriage solemnised between her and the appellant herein on 11.07.2016 on the ground of cruelty and to direct the appellant to return the jewellery, seer articles, clothing and personal items morefully set out in the Schedule of the Original Petition.

3. She has also filed I.A. No. 3593 of 2018 in OP No. 2535 of 2017 under Section 25 of The Hindu Marriage Act to direct the appellant herein to pay a sum of Rs.20,00,000/- to her towards permanent alimony.

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4. The Family Court, by the common order dated 10.07.2019 passed in O.P. No. 2535 of 2017 granted a decree of divorce and

dissolved the marriage solemnised between the appellant and the respondent on 11.07.2016 on the ground of cruelty. A further direction was also issued to the appellant to return the articles mentioned in the schedule of the petition except the house hold articles, clothes and apparels mentioned in Serial Nos. 1 to 4 under the caption "house hold articles" to the respondent within one month from the date of the order. By the very same order, the Family Court directed the appellant to pay a sum of Rs.16,80,000/- to the respondent as permanent alimony within three months. Challenging the aforesaid orders, the appellant has come up with these appeals.

5. When the appeals are taken up for hearing, the learned counsel appearing for the appellant-husband would submit that the various efforts taken by the appellant-husband for re-union with the respondent-wife did not fructify. However, the proposal to pay a sum of Rs.5,00,000/- towards permanent alimony as against the sum of Rs.16,80,000/- awarded by the Family Court has been accepted by the respondent-wife. Further, the respondent has no objection to expunge the observations made by the Family Court against the appellant-husband with respect to infliction of matrimonial cruelty, from 2nd Paragraph in page No.8 to 2nd Paragraph in Page No.13; from the 2nd Paragraph of Page No.14 to the 1st Paragraph of page No.16; 2nd Paragraph in Page No.18, the last paragraph in page Nos. 20 and 21 and the findings in page No.22. Therefore, the learned counsel for the appellant-husband prayed for confirmation of the order passed by the Family Court granting a decree of divorce but to expunge the remarks made in the Judgment of the Family Court as mentioned above. The learned counsel for the appellant also prayed for modification of the order dated 10.07.2019 passed by the Family Court in I.A. No. 3593 of 2018 in OP No. 2535 of 2017 under Section 25 of The Hindu Marriage Act directing the appellant to pay a sum of Rs.16,80,000/- to the respondent towards permanent alimony, instead direct the the appellant to pay to the respondent a sum of Rs.5,00,000/- as has been agreed by the respondent-wife.

6. The learned counsel for the respondent-wife submits that the respondent had agreed to receive a sum of Rs.5,00,000/- towards permanent alimony as against the sum of Rs.16,80,000/- awarded by the Family Court and to expunge the remarks made against the appellant in the Judgment of the Family Court with respect to matrimonial cruelty.

7. In view of the above consensus arrived at between the appellant and the respondent

(i) CMA No. 4381 of 2019 is dismissed confirming the Order dated 10.07.2019 passed in OP No. 2535 of 2017 on the file of Principal Family Court at Chennai. However, the observations and/or findings made by the Family Court in the order dated 10.07.2019 made against the appellant with respect to infliction of matrimonial cruelty are hereby expunged.

(11) CMA No. 4381 of 2019 is dismissed confirming the order dated 10.07.2019 passed in I.A. No. 3953 of 2018 in OP No. 2535 of 2017 on the file of Principal Family Court at

Chennai, however, the quantum of permanent alimony ordered by the Family Court at Rs.16,80,000/- is modified into Rs.5,00,000/- and the amount of Rs.5,00,000/- is directed to be paid by the appellant to the respondent within a period of four weeks from the date of receipt of a copy of this judgment.

(iii) No costs. Consequently, connected Civil Miscellaneous Petition Nos. 24939 and 24943 of 2019 are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

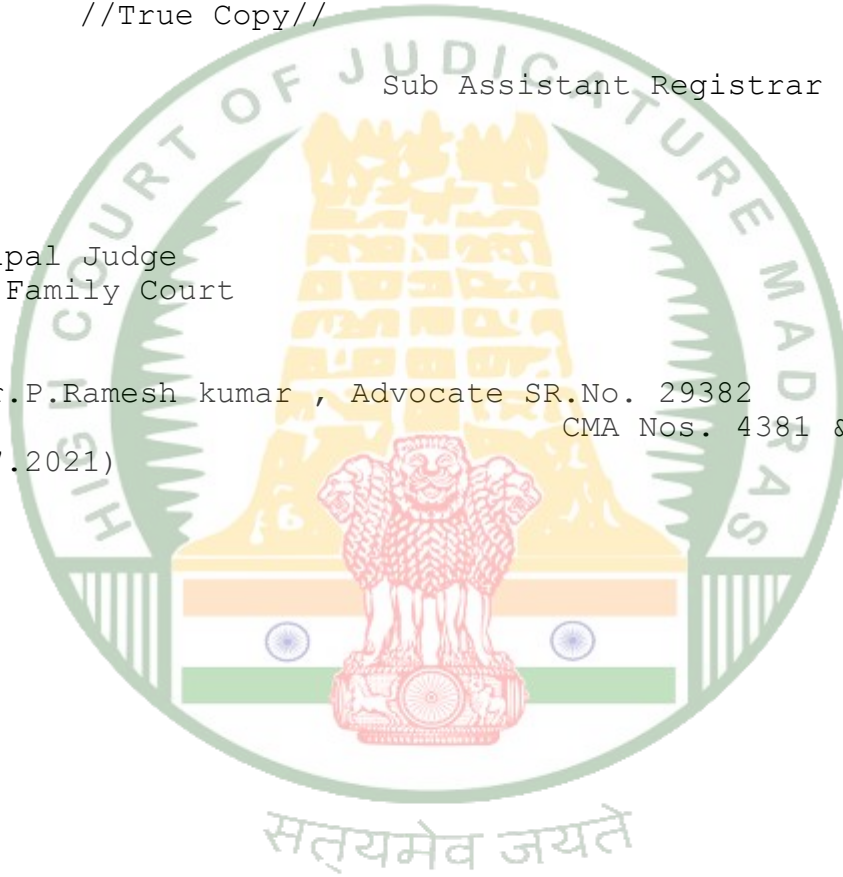
rsh
To

The Principal Judge
Principal Family Court
Chennai.

+1cc to Mr.P.Ramesh kumar , Advocate SR.No. 29382

CMA Nos. 4381 & 4385/2019

A.SK(01.07.2021)



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