

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 10.11.2021****CORAM:****THE HONOURABLE MRS.JUSTICE S.ANANTHI****CMSA(MD)No.40 of 2019 &****CMP(MD)No.9735 of 2019**

WEB COPY

S.Balasankar

... Appellant/Appellant/Petitioner  
vs.

J.Elavarasi

... Respondent/Respondent/Respondent

PRAYER : Civil Miscellaneous Second Appeal filed under Section 100 of Civil Procedure Code read with Order 42 Rule I of Civil Procedure Code against the fair and decreetal order dated 26.03.2019 in CMA (HM)No.16 of 2018 on the file of the Principal District Judge, Tiruchirapalli confirming the Judgment and Decree dated 07.09.2017 in HMOP.No.90 of 2017 on the file of the First Additional Subordinate Judge, Tiruchirapalli.

For Appellant :Mrs.N.Krishnaveni,  
Senior Advocate

For Respondent :Mr.A.Sivasubramanian

**J U D G M E N T**

The appellant/husband filed this appeal to set aside the order in CMA(HM)No.16 of 2018 on the file of the Principal District Judge, Tiruchirapalli confirming the Judgment and Decree dated 07.09.2017 passed by the First Additional Subordinate Judge, Tiruchirapalli in HMOP.No.90 of 2017, which was filed on the ground that the respondent/wife suppressed her caste and got married with him.

2. The petition in HMOP.No.90 of 2017 was filed under Section 12(1)(c) of Hindu Marriage Act. Hence, we have to see whether any fraud was committed by the respondent to solemnize the marriage. The appellant sought divorce on the only ground that the respondent's bio-data was registered with one Ganapathy Thevar Narpani Mandram, Thirumana Thagaval Mayam, as if she belongs to Agamudaiyar Community. However, as per the Community Certificate, the respondent belongs to Valluvan Community. Believing that the respondent belongs to Agamudaiyar Community, marriage was solemnized between the appellant and the respondent. After six months, the appellant found out that the respondent belong to Valluvan Community. Hence, he filed HMOP.No.90 of 2017 for divorce, within a period of six months.



3. The appellant who submits that the respondent had committed fraud, has to prove the fraud committed by the respondent. Even the responsible person in Ganapathy Thevar Narpani Mandram, Thirumana Thagaval Mayam was not examined by the appellant to prove that the respondent wantonly registered her caste as Agamudaiyar, in order to get married to the appellant. Whether the respondent has knowledge about the registration of her case as Agamudaiyar is not known. As per the Judgment of the Principal Seat of this Bench, in the case of A.Premchand vs. V.Padmapriya reported in 1996 (II) CTC 620, suppression of caste is not at all a material suppression or fraud. It would not affect the marriage life. Nowadays, inter caste marriages are solemnized and the couples are living together happily. Hence, this Court is of the opinion that there is no sufficient ground for grant of divorce. Both the Courts below had rightly dismissed the petition and appeal on the sole ground that the petitioner has not proved the case. This Court also finds no material ground to entertain this appeal.

4. Accordingly, this Civil Miscellaneous Second Appeal is dismissed in the admission stage itself. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal District Judge,  
Tiruchirapalli

2.The First Additional Subordinate Judge,  
Tiruchirapalli

+1 CC to M/s.P. THIYAGARAJAN, Advocate ( SR-34206[F] dated 11/11/2021 )

CMSA (MD)No.40 of 2019