



C.M.S.A.No.9 of 2002

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

C O R A M

THE HONOURABLE Ms.JUSTICE **P.T.ASHA**

C.M.S.A.No.9 of 2002

M. Kabaleeswari @ Easwari

... Appellant

-Vs.-

1. M.G.Meganathan

2. M. Suriya

3. M. Udayakumar

[Respondents 2 and 3 brought on record
as LR's of the deceased first respondent
vide Court dated 18.07.2022 made in
C.M.P.No.697 of 2019 in C.M.S.A.No.9/2002
by PTAJ]

... Respondents

Prayer: Civil Miscellaneous Second Appeal filed under Section 28(1) (g) of Hindu Marriage Act, 1955 read with Section 100 of Code of Civil Procedure, 1908, against the order of the Appellate Authority, Principal District Judge, Chengalpet dated 26.11.2001 made in C.M.A.No.12 of 2000 reversing the order of the Sub Judge, Tiruvallur dated 16.04.1999 in H.M.O.P.No.60 of 1995.



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For Appellant : Mr.R.Natesh Kumar

For Respondent-1 : Died

For Respondent-2 : Mr.K.Senthil

For Respondent-3 : Not ready in notice

For Railways : Mr.P.T.Ramkumar,
Standing counsel

J U D G M E N T

The un-successful wife seeks to challenge the decree for divorce obtained by her husband before the Courts below.

2. The respondent-husband has filed H.M.O.P.No.60 of 1985 on the file of the Subordinate Court, Tiruvallur seeking divorce on the ground of mental cruelty.

3. Considering the later developments, I do not intend to go into the intricate details of the dispute between the parties. It appears that at the time of filing of the petition, both the children of the appellant herein stayed back with their father, the deceased respondent.



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4. While this appeal was pending, it appears that the respondent, M.G.Meganathan had moved in with his wife and daughter. The respondent, Meganathan died on 29.03.2015. After his death, his daughter and son were brought on record as respondents 2 and 3.

5. When the matter came up for hearing on 19.10.2022, the learned counsel for the first respondent/daughter would submit that her father and mother had rejoined before her father's death and second respondent was asked to file an affidavit to that effect. She has also filed an affidavit on 04.11.2022 stating that her father and mother were living together prior to her father's death but that they had no contact with her brother, M.Udhayakumar, the third respondent herein. This is a rather strange statement that one makes about one's own sibling. This Court therefore directed the learned counsel for the Railways to verify as to whether the said M.G.Meganathan, who was working with the Southern Railways had nominated any person to receive his terminal benefits.

6. When the matter is taken up for hearing today, Mr.P.T.Ramkumar, learned standing counsel appearing for Railways had appeared and produced



the details about the employment particulars of the deceased M.G.Meganathan and the amounts that would fall due to him.

7. A perusal of the above said document would show that initially in the year 1992, the deceased M.G.Meganathan had nominated his wife/the appellant herein and respondents 2 and 3 as his nominees. The said M.G.Meganathan appears to have taken voluntary retirement from service on 01.03.2013. The document would further show that in the year 2013, Form 6 has been submitted by the said M.G.Meganathan, which is a statement showing the details of members of the family for the purpose of family pension. In the said Form 6, only the respondents 2 and 3/daughter and son were shown. The appellant/wife does not feature in the said Form. Further in the Form for nomination for payment of arrears of pension the son, Udhayakumar, the 3rd respondent herein is shown as the nominee.

8. Be that as it may, considering the sworn statement made by the daughter, the second respondent that her mother and father were living together till their life time, this civil miscellaneous second appeal is allowed, as the deceased himself has condoned the act of cruelty and rejoined his wife.



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Therefore, the decree for divorce granted by the Courts below is set aside.

However, in the light of the details produced by the employer of the deceased, M.G.Meganathan, namely, The Southern Railways, the terminal benefits shall be disbursed as per the Form-6 and Form of nomination submitted by the deceased for payment and arrears of pension submitted by the deceased M.G.Meganathan. No costs.

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Index:Yes/No

Speaking Order : Yes/No

srn

To

1. The Principal District Judge, Chengalpet
2. The Sub Judge, Tiruvallur
3. The Section Officer, V.R.Section, High Court of Madras, Chennai.



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