



C.M.A(MD)No.691 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.12.2022

CORAM

**THE HON'BLE DR JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

C.M.A(MD)No.691 of 2019

N.Sanju Bhati

.. Appellant/Respondent

Vs.

M.Suman Bhati

.. Respondent/Petitioner

Appeal filed under Section 19 of the Family Court Act, praying this Court, to set aside the fair order and decretal order dated 21.08.2018 passed in H.M.O.P.No.87 of 2018 by the learned District Judge, Family Court, Kanniyakumari District at Nagercoil and dismiss the application in H.M.O.P.No.87 of 2018 with costs.

For Appellant :Mr.M.Rajaraman

For Respondent :Mr.S.Krishnamoorthy
(No appearance)



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JUDGMENT

DR G.JAYACHANDRAN,J.
and
SUNDER MOHAN,J.

The husband, who suffered decree of restitution of conjugal rights in H.M.O.P.No.87 of 2018 filed by the wife, has preferred this appeal challenging the order dated 21.08.2018.

2.However, it appears that after one year, he decided to live with his wife and comply with the order of this Court. Hence, he filed a memo stating that he is ready to join with the respondent/wife and recording the memo, suitable orders may be passed.

3.The learned counsel appearing for the appellant produced the memo before this Court, which is undated.

4.On perusal of the notes, this Court finds that a conditional order was passed directing the appellant herein to pay the arrears of maintenance to the tune of Rs.4 lakhs, out of which, the appellant has paid Rs.2 lakhs.



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The conditional order being passed in CrI.R.C(MD)No.412 of 2019. Taking note of the said fact, this Court on 20.09.2019 directed the appellant to pay the balance arrears of maintenance and only thereafter, the matter will be taken up for consideration.

5.In such circumstances, this memo has been filed. It is very obvious that the appellant to avoid the payment of maintenance, has filed the memo to withdraw this appeal. In any case, it is the prerogative of the litigant to withdraw the appeal. This Court cannot stand his way.

6.Since the appellant has expressed his willingness to comply with the order of restitution of conjugal rights, this Civil Miscellaneous Appeal is dismissed. The said memo is recorded. No costs.

(G.J.,J.) (S.M.,J.)
07.12.2022

Index:Yes/No
Internet:Yes/No
Ns



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DR G.JAYACHANDRAN,J.
and
SUNDER MOHAN,J.
Ns

To

1.The District Judge,
Family Court,
Kanniyakumari District,
Nagercoil.

2.The Section Officer,
VR Section,
Madurai Bench of Madras
High Court,
Madurai.

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