



WEB COPY

C.M.A.No.744 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN  
AND  
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

**C.M.A.No.744 of 2018**

A.Murugesan

...Appellant

Vs.

T.Nallammal

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 against the fair order and decree of the Principal Family Judge, Coimbatore dated 27.12.2017 in HMOP.No.649 of 2014.

For Appellant : Mr.T.Balaji

For Respondent : Mr.K.Madhu - No appearance

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

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The husband is on appeal, aggrieved by the dismissal of the divorce petition filed under Section 13(1)(i-a) of the Hindu Marriage Act.



2. According to the appellant, the spouses got married on 13.12.1999 at Coimbatore and they lived in a rented house at Kovilmedu at Coimbatore.

Subsequently, a house was constructed by the husband in a vacant site that stood in the name of the respondent in which they resided together. During the subsistence of the marriage, two sons were born on 17.02.2003 and 10.04.2005. Complaining that the wife drove away the husband from matrimonial home on 10.02.2014 and that the wife is refusing conjugal relationship because of her suspicion that the husband is having an extramarital affair, the husband sought for a divorce under Section 13(1)(i-a) of the Hindu Marriage Act.

3. The wife resisted the claim contending that it was the husband who was the cause for the separation. She also claimed that the house was constructed on the contribution of the wife also. The claim that she had refused to conjugal bliss was stoutly denied. It was also contended that it was the husband who left the matrimonial home on his own and has chosen to apply for divorce. According to her, elders of both the families approached him for re-union and it was he, who refused the re-union. The claim of the husband that it was the wife who refused to live with him was denied.



4. On the above pleadings, the learned Family Judge, Coimbatore framed the following point for determination:-

*"i) Whether the petitioner / husband is entitled to get the relief of divorce from the respondent / wife as prayed for by him ?"*

5. On the side of the petitioner / husband, he was examined as P.W.1 and Exs.P1 to P5 were marked. Respondent / wife was examined as R.W.1 and no documents were marked. The learned Family Judge, on appreciation of the oral evidence, since the documentary evidence did not have anything to do with the pleadings of cruelty, concluded that the appellant has not made out a case for physical and mental cruelty that would satisfy the requirements of Section 13(1)(i-a) of the Hindu Marriage Act. On the said finding, the learned Family Judge dismissed the petition for divorce. Aggrieved, the husband has filed this appeal.

6. We have heard Mr.T.Balaji, learned counsel for the appellant. Though the respondent has entered appearance through a counsel, the counsel is continuously absent.

7. We have been taken through the evidence on record and the order of the learned Family Judge, Coimbatore. The oral evidence of the parties is



the only evidence that is available and the same is not supported by any documentary evidence. Though the wife would admit that she has filed a complaint against the husband, a copy of the complaint has not been placed before the Court to ascertain the exact nature of the complaint. Though it is claimed that the wife made an attempt to commit suicide and several other allegations have been made to portray the wife as a very cruel person and because of her the husband is put to lot of suffering, no evidence has been placed on record in support of such allegations.

8.As rightly found by the learned Family Judge, the evidence on record does not disclose such cruelty on the part of the wife so as to grant a decree for divorce on the ground of cruelty. The conclusions reached by the Family Court are in tune with the evidence and nothing has been brought about in order to enable us to interfere with the findings of the learned Family Judge, Coimbatore. The claim that the wife has refused conjugal bliss is also unacceptable because two children have born of the marriage and as of today, they should be 20 years and 18 years respectively.

9.The learned counsel for the appellant, despite his best efforts, is unable to persuade us to take a different view from that of the Family Court.



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Once we find that the evidence on record has been properly appreciated and the Family Court has come to a reasonable conclusion, we do not think, we can interfere in the appeal. This appeal fails and it is accordingly, **dismissed**. No costs. Consequently, connected miscellaneous petition, if any, is closed.

(R.S.M., J.) (R.S.V., J.)  
18.04.2024

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Internet: Yes

Index: No

Speaking

Neutral Citation : No

**R.SUBRAMANIAN, J.**  
**and**  
**R.SAKTHIVEL, J.**

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To:-

The Principal Judge,  
Family Court,  
Coimbatore.

**C.M.A.No.744 of 2018**

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