



C.M.A.Nos.2752 and 2754 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

C.M.A.Nos.2752 and 2754 of 2024

K.Subramanian

..Appellant in both appeals

Vs.

E.Sarojini

..Respondent in both appeals

Common Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, to set aside the fair and final order dated 02.03.2024 passed by the learned Additional Principal Family Court, Coimbatore in H.M.O.P.Nos.740 and 1556 of 2021.

For Appellant in both appeals : Mr.L.Mouli

For Respondent in both appeals: Mr.P.Nagarajan

COMMON JUDGMENT

(The Judgment of the Court was made by J.Nisha Banu,J.)

These civil miscellaneous petitions have been filed by the



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appellant/husband against the decree of divorce granted in H.M.O.P.No.740/2021 filed by the respondent/wife, and against the dismissal of H.M.O.P.No.1556/2021, filed by the appellant/husband for restitution of conjugal rights.

2. The marriage between the petitioner and the respondent was solemnized on 04.03.2015 at Sree Veeramachiamman Temple, Masakalipalayam in accordance with the Hindu rituals. It is 2nd marriage for both of them.

3. The averments in the OP filed for divorce by the wife is that the husband did not give any money for expenses and so she was bearing the expenses totally.

4. Further the respondent/husband harassed her stating that she has no control in the cohabitation and caused cruelty and further he suspected her. Due to continuous harassment and cruelty caused to her, she left the matrimonial home on 05.06.2020.



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5. Thereafter, the wife/petitioner filed petition for divorce on the ground of cruelty in HMOP No.740/2021. The respondent filed HMOP.No.1556 of 2021, for restitution of conjugal rights.

6. The Trial Court vide order dated 02.03.2024 had granted decree of divorce and dismissed the petition for restitution of conjugal rights, filed by the appellant/husband. Challenging the decree of divorce and dismissal order, the appellant/husband preferred these appeals.

7. The learned counsel for the appellant/husband submitted that the Trial Court without appreciating the oral and documentary evidence, granted order of divorce and erred in holding that the respondent/wife was subjected to cruelty. The appellant was always ready and willing for reunion, however the respondent/wife without any sufficient reason refused to live with the appellant.

8. The learned counsel appearing for the respondent/wife submitted that merely because there is no allegation of physical cruelty, the claim of the respondent cannot be ignored. The Trial Court after



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considering the facts and circumstances of the case and the oral evidence, held that the respondent/wife has proved that she was subjected to cruelty and the said finding requires no interference by this court.

9. In the light of the above undisputed facts set out by the parties and finding no error in the impugned order and also taking note of the fact that it is the second marriage for both the appellant and respondent and they are living separately from the year 2020, we are of the view that the order passed by the Trial Court which is impugned in this appeal, warrants no interference. Accordingly, both the C.M.As are dismissed, confirming the order dated order dated 02.03.2024 passed in H.M.O.P.Nos.740 and 1556 of 2021, by the learned Additional Principal Family Court, Coimbatore. No costs.

(J.N.B,J.) (R.S.V., J.)
10.12.2024

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To
The learned Judge, Family Court, Cuddalore.

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