



*C.M.S.A(MD)No.26 of 2014*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.07.2024**

CORAM

**THE HON'BLE MRS.JUSTICE S.SRIMATHY**

**C.M.S.A(MD)No.26 of 2014**

Renger ... Appellant/Respondent/Petitioner

Vs.

R.Rengammal ... Respondent/Appellant/ Respondent

**PRAYER:** Civil Miscellaneous Second Appeal is filed under Section 28 of Hindu Marriage Act, against the judgment and decree, dated 28.01.2012 in C.M.A.No.13 of 2011 on the file of District Judge, Karur in reversing the judgment and decree, dated 30.03.2010 in H.M.O.P.No. 76 of 2008 on the file of Sub Court, Kulithalai.

For Appellant : Mr.K.Govindarajan

For Respondent : No Appearance

### **JUDGEMENT**

The present Civil Miscellaneous Second Appeal is preferred by the husband against the judgment and decree, dated 28.01.2012 passed in C.M.A.No.13 of 2011 on the file of District Judge, Karur by reversing



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the judgment and decree, dated 30.03.2010 passed in H.M.O.P.No.76 of 2008 on the file of Sub Court, Kulithalai.

2. The husband had preferred H.M.O.P.No.76 of 2008 for divorce and the same was allowed. Aggrieved over the same, the wife had preferred an appeal in C.M.A.No.13 of 2011 and the same was allowed. Aggrieved over the same, the husband is before this Court.

3. This Court issued notice to the respondent and the respondent has received the same, but had chosen not to appear either in person or through counsel. In order to grant opportunities to the respondent, this Court had posted granted four adjournments. But the respondent did not appear. Therefore, this Court proceeded to hear the case on merits.

4. The contention of the learned counsel appearing for the appellant husband is that he is 62 years old and out of the wedlock, 2 sons were born and father-in-law has already granted a property in the name of the respondent Rengammal in order to protect the life of the two children. Both the appellant and respondent were living separately for past 37 years. Therefore, there is no possibility of reunion among the



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parties.

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5. After hearing the learned counsel for the appellant, this Court is of the considered opinion since the parties are living separately for the past 37 years, this Court is inclined to grant divorce to the parties. The Appellate Court had failed to considered the fact of long separation and the same is erroneous. Therefore, the order passed dated 28.01.2012 passed in C.M.A.No.13 of 2011 is liable to be set aside and accordingly set aside.

6. In view of the above, this Civil Miscellaneous Second Appeal stands **allowed**. The judgment and decree, dated 30.03.2010 passed in H.M.O.P.No.76 of 2008 on the file of Sub Court, Kulithalai granting divorce is confirmed. The reversing judgment and decree, dated 28.01.2012 passed in C.M.A.No.13 of 2011 on the file of District Judge, Karur declining divorce is set aside. No costs.

**24.07.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No

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To

- 1.The District Judge,  
Karur.
- 2.The Sub Court,  
Kulithalai.
- 3.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**S.SRIMATHY ,J.**

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Order made in  
C.M.S.A(MD)No.26 of 2014

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