



C.M.A.(MD)No.937 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.12.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**C.M.A.(MD)No.937 of 2018
and
C.M.P.(MD)No.13101 of 2024**

C.Uma Rani

... Appellant

Vs.

R.Sivakumar

... Respondent

Prayer : Civil Miscellaneous Appeal is filed under section 19 of Family Court Act, to call for the records and set aside the order dated 25.07.2018 passed in H.M.O.P.No.870 of 2015 by the Family Court, Madurai and allow this civil miscellaneous appeal.

For Appellant : Mr.T.R.Jeyapalam

For Respondent : Mr.A.Mathan



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JUDGMENT

(Judgment of the court was delivered by G.R.Swaminathan, J.)

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Heard both sides.

2.C.Uma Rani got married to R.Sivakumar on 28.03.2007 at Lena Marriage Hall, Pudukkottai as per Hindu Rights and Customs. A girl child was born through the said wedlock. The marital relationship subsequently came under strain. Uma Rani filed D.V.C.No.61 of 2015 on the file of Additional Mahila Court, Madurai. It was however dismissed on 27.11.2015. Uma Rani had filed proceedings questioning the same. She also filed M.C.No.84 of 2014 on the file of the Additional Mahila Court, Madurai. It was allowed on 20.01.2017. Sivakumar filed criminal revision case questioning the same. It was also dismissed. Sivakumar filed H.M.O.P.No.870 of 2015 on the file of the Family Court, Madurai under Section 9 of the Hindu Marriage Act. It was allowed vide order dated 25.07.2018. Challenging the same, this civil miscellaneous appeal has been filed.

3.When the matter was taken up for hearing today ie., 13.12.2024, the learned counsel on either side admit that Sivakumar filed



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H.M.O.P.No.300 of 2019 before the Family Court, Madurai in March 2019 seeking dissolution of marriage on the ground of cruelty and desertion.

4.Since Sivakumar had already filed a petition for divorce, he can no longer maintain his plea for restitution of conjugal rights. We are therefore of the view that merits of the matter need not be gone into in this case. We dispose of this civil miscellaneous appeal with a specific direction and observation that Sivakumar will not be entitled to take advantage of the order dated 25.07.2018 made in H.M.O.P.No.870 of 2015 on the file of the Family Court, Madurai in his divorce petition.

5.This civil miscellaneous appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (R.P. J.)
13.12.2024

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**G.R.SWAMINATHAN, J.
and
R.POORNIMA, J.**

ias

To:-

The Family Court,
Madurai.

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