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C.M.A.Nos.3014 and 3015 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.11.2025

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.Nos.3014 and 3015 of 2010
and M.P.No.1 of 2010

T.Mathivanan
s/o Thirumoorthy
having permanent address at
Door No.154/297 Selvapuram South,
Perur Main Road,
Kumarapalayam Village,
Coimbatore District

.... Appellant in both CMAs

V.

R.Thilaka
D/o Ramasamy &
W/o Mathivanan
Door No.287, Dr.Rajendra Prasad Road,
Gandhipuram, Coimbatore District.

.... Respondent in both C.M.As

Common Prayer: Civil Miscellaneous Appeals have been filed under Section 19 of the Family Court Act 1984, against the common judgment and decree dated 06.01.2010 made in H.M.O.P.Nos.906 of 2008 and 502 of 2009 on the file of the Family Court, Coimbatore.



C.M.A.Nos.3014 and 3015 of 2010

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In both C.M.As

For Appellant :Mr.C.R.Prasanan

For Respondent :Mr.K.Thilageswaran
(withdrawn appearance
memo filed)

COMMON JUDGMENT

Dr.G.Jayachandran, J.

The above appeals have been preferred by the husband who lost his petition for divorce and suffers a decree of restitution of conjugal rights in the petition filed by his wife, who is the respondent herein.

2. The fact in short is that the appellant and the respondent got married on 24.08.2001 at Coimbatore. Out of the said wedlock a male child was born on 01.12.2002 and he was named as Raghunandhan. Thereafter, on account of the discord developed between the spouse, they got separated on 09.08.2005. Thereafter, they have not mend their differences for re-union.

3. In the said circumstances, making allegations of cruelty, the appellant/husband has filed HMOP No.504 of 2009 before the Sub-Court, Dharapuram. The respondent/wife had preferred HMOP No.906 of 2008 before the Family Court, Coimbatore seeking restitution of conjugal rights.



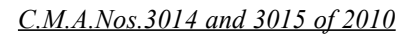
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4. The Original Petition filed by the husband before the Sub-Court, Dharapuram was transferred to the Family Court at Coimbatore. Both petitions were heard together by the Family Court at Coimbatore and a common judgment was passed on 06.01.2010, in which the petition filed by the wife for restitution of conjugal rights was allowed and the petition filed by the husband for divorce was dismissed.

5. The above decree in the two Original Petitions has resulted in the appeals which are under consideration. This matter is pending before this Court for the past 15 years. Attempts made by this Court for mediation have failed, since the respondent did not turn up for mediation.

6. Learned counsel appeared for the respondent has filed a memo stating that the respondent is not extending proper cooperation for continuing the case and therefore they have communicated her about the decision to withdraw their vakalat. Even for that communication, she has not responded and therefore they may be permitted to withdraw their appearance.

7. This Court on 26.09.2025 taking note of the memo filed by the counsel and the statement of the learned counsel for the appellant that private notice was served on the respondent on 17.09.2025, directed the Registry to



10. The sum and substance of the allegations made by the appellant/husband in his divorce petition is that the respondent/wife after the birth of their child on 01.12.2002 had summarily withdrawn from conjugal relationship and developed aversion to the matrimonial affairs. She had been frequently fighting with the appellant and her mother inspite of his sincere attempts to solve the disharmony and treat the respondent for her erratic



behaviour. However, the same could not fructify and at last, separation occurred on 09.08.2005.

11. Fearing danger to his life and alleging cruelty, HMOP No.504 of 2009 on the file of Sub-Court, Dharapuram has been laid. Parallely, the respondent/wife in her petition for restitution of conjugal rights has contended that her husband due to his position suffered superiority complex and used to ill treat her pointing that she was dependent on him for her livelihood. However to save the matrimonial relationship and the prestige of the family and for social security, she used to tolerate the ill treatment. He always used to call her a lunatic and instigate her to commit suicide.

12. In the absence of the appellant, his mother and sister used to abuse her and subjected her to mental and physical torture. Hence, she was forced to go to her parental house during first week of January, 2007. She has also contended that the averments made by the appellant in his divorce petition were false, invented for the sake of ground for divorce and stated about the pendency of the maintenance case filed by her.

13. The Family Court, Coimbatore after recording the evidence of the appellant as well as the respondent and the documents relied upon by them,



had passed the impugned common judgment disbelieving the case of the appellant. The evidence as well as the admission of the respondent reveals that from January, 2007, the parties are living separately. The Court below disbelieved the case of the appellant on the ground that there is no corroborative evidence to substantiate that the appellant was subjected to cruelty and the separation was a voluntary act of the respondent.

14. Insofar as the allegation of insanity is concerned, the appellant has relied upon the EEG report, marked as Ex.R3 and the medical certificate, marked as Court Ex.C1, which does not disclose anything adverse to the respondent/wife.

15. Hence, this Court, at this length of time concern with the conduct of the parties. The long separation since 2007 till date, the disinclination of the respondent to participate in the mediation proceedings as well as in the adjudication proceedings before the Court and not taking any steps to enforce the decree of restitution of conjugal rights would clearly show that she is not inclined to join with the appellant.

16. Insofar as the medical records, particularly Ex.C1, the report clearly indicates that the respondent has no psychiatric abnormality during the



observation period. Her thinking and perception are normal, her memory and intelligence are within normal limit. Perhaps, the appellant has exaggerated some abnormal behaviour of the respondent to term it as insanity.

17. De hors all such averments, the other attendant circumstances which disclose the behaviour of the respondent would force this Court to hold that the marriage that was solemnized on 24.08.2001 has broken irretrievably and mutual allegations made against each other be construed as cruelty caused mutually by each other.

18. Hence, the petition filed by the appellant/husband for divorce is allowed and the petition filed by the wife/respondent for restitution of conjugal rights is dismissed. Accordingly, the marriage that was solemnized on 24.08.2001 stands dissolved.

19. Insofar as the maintenance ordered by the Family Court in M.C.No.163 of 2008, which form part of the common judgment is concerned, the respondent is at liberty to seek for modification or enhancement, if she so desires by initiating separate proceedings. The order passed by this Court in these two appeals will not stand in the way of filing any application for enhancement of maintenance.



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20. Learned counsel for the appellant submits that the Court below had enhanced the maintenance to Rs.10,000/- per month, which the appellant is continuously paying. He further submits that the appellant is taking care of his son, who is now pursuing Engineering in a private Engineering College.

21. These Civil Miscellaneous Appeals are allowed. However there shall be no order as to costs. Connected Miscellaneous Petition is closed.

(Dr.G.J.J.) & (M.S.K.J.)
07.11.2025

Index:yes/no
Internet:yes
Speaking order/non speaking order
Neutral citation:yes/no
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To

The Family Court, Coimbatore

Dr.G.JAYACHANDRAN, J.
and
MUMMINENI SUDHEER KUMAR,J.

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