

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2025

CORAM

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

C.M.A.No.2630 of 2013

V.Srinivasan alias Murali,
Son of Late Mr.Varadan, Hindu,
Aged 43 years and residing at Plot No.2,
Fourth Cross Street, Anand Nagar,
Mudaliarpeta, Puducherry – 4. ... Appellant/Respondent

/versus/

Jayalakshmi alias Lavanya,
Daughter of Mr.Kannan, Hindu, Aged 38,
and Residing at No.40, Seventh Cross Street,
Rainbow Nagar, Puducherry-11. ... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 28(4) of Hindu Marriage Act, to call for the records in MOP.No.35 of 2009 before the Hon'ble Family Court, Puducherry, set aside the impugned order dismissing the MOP dated 08.03.2013 by allowing this C.M.A and thereby said MOP No.35 of 2009.

For Appellant : Mr.J.Zeakumar

For Respondent : No appearance

J U D G M E N T

(Order of the Court was made by G.Jayachandran, J.)

The Civil Miscellaneous Appeal, arising out of the order passed by the Family Court, Puducherry, in M.O.P.No.35 of 2009 *vide* order dated 08.03.2013, is pending for the past 12 years.

2. The sum and substances of the appeal preferred by the husband is that he and the respondent got married on 13.05.2005. Their marriage not been consummated due to mental and physical infirmities of the respondent, which was suppressed by her parents at the time of marriage. This plea was contested by the respondent denying the allegations. However, in her evidence, she has admitted that the marriage was not consummated but blamed the petitioner for the non-consummation of the marriage.

3. The Family Court, after considering the evidence, dismissed the petition for divorce, holding that the petitioner/appellant had not proved that the respondent refused to cohabit with the petitioner. Contrarily, the respondent has blamed the petitioner for refusal of cohabitation. Hence, the Court below

had concluded that the appellant/petitioner failed to prove cruelty. As a result, the petition for divorce was dismissed.

4. Aggrieved by the said dismissal order, the present appeal is filed stating that the desertion and cruelty been pleaded and proved by the petitioner, coupled with the fact that the marriage was never consummated. The Court below ought to have considered that non-consummation of marriage, even after 18 years of marriage is a ground for divorce.

5. This Court, on several occasion, has attempted to call the parties to facilitate amicable settlement unfortunately it did not fructify. In fact, the appeal itself once got dismissed for non-prosecution on 05.11.2013 and later restored on file. That is one of the reasons for the appeal been kept pending for more than 12 years.

6. Even today, the respondent has not appeared. The Learned Counsel for the petitioner is present and submitted that the marriage has broken irretrievably. The non-consummated marriage has to be legally dissolved for the singular reason that reunion is not possible. However, the trial Court

inspite holding that the marriage not consummated, had dismissed the petition on the ground that cruelty and desertion not proved.

7. This Court, taking into consideration of the above facts, find that whoever be the cause for the non-consummation, the fact remains that the marriage solemnised in the year 2005 not been consummated even after 20 years. Presently the appellant is 55 years and the respondent is 50 years old. In such circumstances, there is no purpose in maintaining the marital status of the petitioner and the respondent as husband and wife.

8. This Court is of the view that it is a fit case to decree dissolution of marriage by reversing the order of the Family Court, Puducherry, passed in MOP.No.35 of 2009, dated 08.03.2013. Accordingly, the marriage between the appellant and the respondent, solemnised on 13.05.2005, is hereby dissolved.

9. As a result, this Civil Miscellaneous Appeal is allowed. There shall be no order as to costs.

(Dr.G.J, J) & (M.S.K, J)
17.09.2025

Index :Yes/No.
Internet :Yes/No.
Neutral Citation :Yes/No.
bsm

To,
1. The Family Court, Puducherry.

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