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C.M.A.Nos.810 and 811 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A.No.810 and 811 of 2023
and C.M.P. No. 1190 and 1191 of 2025

M. Sundar Raj S/o. Mani Nayakar ... Appellant / Respondent.

vs.

S. Kesavarthini @ Nandhini ... Respondent / Petitioner.

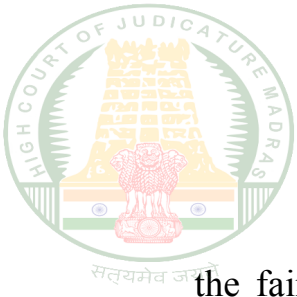
PRAYER: Civil Miscellaneous Appeal filed under Section 19(1) of the Family Courts Act, 1984 to set aside the fair and decreetal orders dated 27.01.2023 in H.M.O.P. No.49 of 2019 and H.M.O.P. No.90 of 2019 passed by the Family Court, Thiruvallur.

For Appellant : Mr. K.S. Arumugam
For Respondent : Mr. V.P. Dillibabu

COMMON JUDGMENT

(Judgment of the Court was made by P.DHANABAL,J.)

These Civil Miscellaneous Appeals have been preferred as against



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the fair and decreetal orders passed by the Family Court, Thiruvallur in H.M.O.P. No.49 of 2019 and H.M.O.P. No.90 of 2019 dated 27.01.2023.

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2. Before the trial Court, the husband M. Sundar Raj, who is the appellant herein in both the appeals, has filed a petition in H.M.O.P. No.90 of 2019 for divorce under Section 13(1)(i-a) of the Hindu Marriage Act and the wife S. Kesavardhini @ Nandhini, who is the respondent herein in both the appeals has filed a petition under Section 9 of Hindu Marriage Act for restitution of conjugal rights. The trial Court, after hearing both sides and perusing the records, dismissed the petition filed by the husband for the relief of divorce and allowed the petition filed by the wife for the relief of restitution of conjugal rights. Aggrieved by the said orders, the husband has preferred these two appeals.

3. This Court referred the matter for mediation and before the Mediation Centre, both the parties amicably settled the matter and they also entered into a settlement of agreement through mediation and both the parties consented for divorce and to dissolve the marriage held between them. The said compromise memo was forwarded to this Court. As per the compromise memo, both the parties exchanged all the gold jewels,



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silver articles and sreedhana articles and the appellant paid a sum of Rs.5 lakhs to the respondent for the car purchased by them jointly. The appellant also settled his properties to the respondent at Plot No.6A to an extent of 1250 sq. ft. comprised in Survey Nos.15/7, 15/4C, 15/4D and 15/6 in S.M. Emerald Avenue, Phase-I situated at Unamanchery Village, Vandalur Taluk, Chengalpattu District and the property at Survey No.138/2 to an extent of Acre 0.27 situated at Unamanchery Village, Vandalur Taluk, Chengalpattu District through a Settlement Deed dated 05.04.2025. The respondent also agreed to withdraw the domestic violence case in D.V.C. No.57 of 2024 on the file of the Additional Mahila Court, Thiruvallur. To that effect, both the parties have amicably settled the matter between them.

4. This Court also perused the compromise memo dated 29.04.2025, where the parties along with their respective counsels signed in the Memo before the Mediation Centre. Therefore, this Court is inclined to accept the compromise between the parties. However, as far as granting divorce is concerned, the trial Court dismissed the H.M.O.P. No.90 of 2019 filed by the appellant husband for the relief of divorce and now both the parties have mutually consented for divorce and therefore, it is appropriate to direct the parties to approach the appropriate Forum by way of filing



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appropriate application in accordance with law. As far as the relief in respect of restitution of conjugal rights is concerned, in view of the settlement arrived at between the parties, the order of granting relief of 'restitution of conjugal rights' has to be set aside. Therefore, in view of the above said settlement reached between the parties, this Court is inclined to pass the following order:

(i) The order impugned passed by the trial Court in H.M.O.P. No.49 of 2019 on the file of the Family Court, Tiruvallur is set aside.

(ii) The parties are permitted to approach the trial Court by filing a petition under Section 13B of the Hindu Marriage Act. On such application filed by the parties, they can seek waiver for 6 months statutory period provided under the Act.

(iii) On such waiver application filed by the parties, the trial Court shall consider the same taking into consideration the pendency of the litigation between the parties for a long time and shall pass orders in accordance with law.



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(iv) The Memo of Compromise shall form part of this order.

5. With the terms indicated above, these Civil Miscellaneous Appeals are *disposed of*, accordingly. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(R.S.K.J.) & (P.D.B.J)

25.07.2025

mjs

Internet : Yes

Index: Yes/No

Neutral Citation: Yes/No

To

The Judge,
Family Court,
Tiruvallur.



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R. SURESH KUMAR,J
and
P.DHANABAL,J

(mjs)

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