



WEB COPY

C.M.A.No.1641 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2025

CORAM

**THE HONOURABLE MR.JUSTICE DR.G. JAYACHANDRAN
and**

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.No.1641 of 2018

L.Mohanachandran

... Appellant(s)

Vs.

P.Anitha

... Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, as against the Fair Order and Decreetal Order dated 28.02.2018 made in HMOP No.71 of 2013 on the file of the Principal Judge, Family Court, Coimbatore.

For Appellant(s) : Mr.C.Ravichandran

For Respondent(s) : No appearance

J U D G M E N T

(Judgment of the Court was made by **DR.G.JAYACHANDRAN, J.**)

Appeal filed by the husband against the dismissal of his Divorce Petition by the Principal Judge, Family Court, Coimbatore, in H.M.O.P. No.71 of 2013. The Divorce Petition was filed under Section 13(1)(i-a) and 13(1)(i-b) of the Hindu Marriage Act on the grounds of desertion and cruelty.



The factum of separation from 2007 is not disputed. The respondent, who is working in the State Bank, had not joined the appellant thereafter.

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2. According to the respondent, as stated in her counter, due to the physical and mental cruelty meted out to her by the husband, she was forced to leave the matrimonial home. She also alleged that the husband had forcibly taken a 100-gram gold bar belonging to her and sold it. The Trial Court, on considering the evidence of the appellant and the evidence of the respondent and her mother, dismissed the Divorce Petition by order dated 28.02.2018.

3. Aggrieved by the dismissal, the present appeal has been filed, primarily on the grounds that the Trial Court failed to take note of the harassment caused to the appellant due to the false complaint lodged by the respondent under the Domestic Violence Act and failed to consider the long separation since 2007 without any valid reason and also failed to appreciate the *animus deserendi* established through the conduct of the respondent and her own admissions during cross-examination.



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4. This Court issued notice to the respondent, and she entered appearance through Mr. Vijayakumar, learned counsel. However, though the matter was listed on several occasions, there was no representation on her behalf. Earlier, when the matter was referred to mediation, the respondent did not participate.

5. The learned counsel for the appellant submits that the domestic violence complaint filed by the respondent was taken up for consideration, and during the pendency of the proceedings, the respondent had taken back all her belongings including her jewels on 30.08.2022 in D.V.A.C. No.501 of 2012. Thereafter, she has not shown any interest either in resuming cohabitation or in contesting the matter. The fact that she did not file any petition for restitution of conjugal rights also shows lack of intention to resume marital life. Hence, her desertion is wilful.

6. This Court, taking note of the admitted position that the parties have been living separately since 2007 and that the respondent has shown no inclination to rejoin the appellant, finds that although the respondent alleges cruelty, there is no material to show that it was the sole reason for her



continued separate living. In such circumstances, the dictum laid down by the Hon'ble Supreme Court in "**Naveen Kohli -vs- Neetu Kohli**", reported in **2006 AIR SCW 1550**, comes to the aid of the appellant. Since the separation is long and continuous, and no sign of rapprochement has emanated from either side, the marital relationship, which has irretrievably broken down, needs to be formally dissolved.

7. Accordingly, the appeal is allowed, and the marriage solemnised between the appellant and the respondent on 02.03.2006 is dissolved on the ground of wilful desertion. No costs. Connected miscellaneous petitions, if any, shall stand closed.

(Dr.G.J.,J.) (M.S.K.,J.)
14.11.2025

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



To

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