



C.M.A.No.2753 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2025

CORAM:

THE HONOURABLE DR. JUSTICE **G.JAYACHANDRAN**
and
THE HONOURABLE MR. JUSTICE **MUMMINENI SUDHEER KUMAR**

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Lakshmi Loganathan

.. Appellant

Vs.

M.Murali

.. Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 19(1) of the Family Courts Act read with Section 28 of Hindu Marriage Act, to set aside the Fair and Decreetal orders in I.A. No. 2 of 2022 in O.P No. 754 of 2022 dt. 21.01.2025 on the file of III Additional Family Court, Chennai.

For Appellant : Mr.B.Bharath Kumar

For Respondent : Mr.A.Prabhakaran

JUDGMENT

[Order of the Court was made by Dr.G.JAYACHANDRAN., J.]

The Civil Miscellaneous Appeal has been filed by the appellant/wife seeking to set aside the order passed in I.A.No.2 of 2022 in O.P.No.754 of



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2022 by the III Additional Family Court, Chennai, whereby the application filed to set aside the *ex parte* decree of divorce dated 28.07.2022 in O.P.No.754 of 2022 was dismissed.

2. The short point involved in this case is that the husband had filed a petition for divorce on the ground of cruelty. It appears that the notice sent to the respondent/wife was returned unserved and substituted service was effected through paper publication. On recording compliance of service through paper publication, the Family Court proceeded *ex parte* and passed a decree of divorce on 28.07.2022.

3. Coming to know of the *ex parte* decree, the respondent/wife filed I.A.No.2 of 2022 seeking to set aside the *ex parte* decree, stating reasons for her non appearance.

4. However, the Family Court, pointing out the discrepancies between the date of knowledge of the *ex parte* decree and the date of filing the application to set aside the *ex parte* decree, held that the



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petitioner/appellant herein had failed to assign sufficient reasons for the delay of more than one month in filing the petition to set aside the *ex parte* decree. Holding that the reasons stated are not genuine, the Family Court dismissed the application.

5. The impugned order of the Family Court appears to have been passed on the ground that the appellant had furnished an incorrect date of knowledge of the *ex parte* decree and the application to set aside the same was filed beyond the statutory period of 30 days. However, on perusal of the records, this Court finds that the petition for divorce filed on the ground of cruelty and alleging that the wife had left the matrimonial home, had wrongly shown the parental address of the respondent, despite the fact that the respondent is gainfully employed in the Commercial Tax department at Chennai.

6. The appellant had filed the application to set aside the *ex parte* decree stating that she came to know the pendency of the divorce petition through paper publication and she had attended the Court on 22.07.2022,



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but was unable to follow the proceedings. It was only thereafter, she became aware that an *ex parte* decree had been passed.

7. This Court finds no material discrepancy in the appellant's statement regarding the date of knowledge of the *ex parte* decree. While the Family Court had taken note of the substituted service through paper publication and proceeded *ex parte*, in the interest of fairness. Considering the allegations of cruelty against the respondent/wife needs to be tested in the manner known to law.

8. In view of the above reasons, the order passed by the Family Court, Chennai dated 21.01.2025 in I.A.No.2 of 2022 in O.P.No.754 of 2022 is hereby set aside. Consequently, the *ex parte* decree dated 28.07.2022 passed in O.P.No.754 of 2022 is also set aside and the said Original Petition is restored to file.

9. The Family Court is directed to take up the matter out of turn on a priority basis and dispose of the O.P.No.754 of 2022, preferably within



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a period of six (6) months from the date of receipt of a copy of this judgment. In the meantime, if the parties are inclined to explore the possibility of an amicable settlement through mediation, it is open to them to do so. The Family Court shall facilitate such mediation as per law. The appellant/wife is directed to file her counter on or before the next hearing fixed by the Family Court.

10. In light of the above directions, this Civil Miscellaneous Appeal stands allowed. No costs.

[Dr.G.J., J.] & [M.S.K., J.]
25.09.2025

rpl

To

The III Additional Family Court, Chennai.



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and
MUMMINENI SUDHEER KUMAR., J.
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