



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2025

CORAM

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

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR**

C.M.A.No.2057 of 2022

Mr.Anbu @Muthusamy

... Appellant(s)

Vs.

Mrs.Sathya

... Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, against the order dated 07.01.2022 passed by the District Judge, Family Court, Namakkal in FCOP No.478 of 2018.

For Appellant(s) : Mr.Sheik Ismail
For Respondent(s) : No representation

J U D G M E N T

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

This Civil Miscellaneous Appeal is filed against the order dated 07.01.2022 passed in F.C.O.P. No.478 of 2018 by the District Judge, Family Court, Namakkal.



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2. The lower court records indicate that even before the Family Court, Namakkal, the respondent, though she entered appearance through counsel and filed a counter, did not participate in the trial.

3. This is a case where the appellant/husband filed a petition for divorce under Section 13(1)(i-a) and 13(1)(i-b) on the grounds of desertion and cruelty. However, the Family Court, Namakkal dismissed the Divorce Petition for want of evidence. Aggrieved thereby, the present appeal has been filed.

4. The marriage between the appellant and the respondent was solemnised on 13.09.2013, and two children were born to them during the marital relationship. According to the appellant, the respondent has willfully withdrawn from the marital relationship without any valid reason and has been living separately along with the children. It is further alleged that while residing with him, she behaved in a paranoid manner by suspecting his character and causing cruelty. The Family Court, Namakkal, however, taking note of the fact that though it is alleged that the respondent deserted her husband since 2016 and took both the children along with her, the appellant



had not preferred any police complaint nor issued any notice seeking reunion, held that willful withdrawal from the marital relationship was not proved.

With respect to the allegation of cruelty, the court below observed that no medical records were produced to show that the respondent suffered from any mental illness. Aggrieved by these findings, the present appeal has been filed.

5. Learned counsel appearing for the appellant submitted that the failure of the respondent to make any attempt for reunion itself is an indication that her withdrawal from the marital relationship is willful. Her non-participation in the proceedings before the Family Court, Namakkal, as well as before this Court despite receipt of private notice, is yet another indication of her continued refusal to join the appellant along with the children. Hence, the finding of the Family Court that there is no proof of willful withdrawal is contrary to the facts.

6. The learned counsel further submitted that the appellant, by producing additional documents such as school fee receipts and medical bills, has shown that he has been taking care of both the children and is also paying the maintenance awarded by the Family Court, Namakkal. He undertakes to



continue paying the maintenance in future as well.

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7. As regards the allegation of cruelty, learned counsel for the appellant emphasized that the conduct of the respondent, past and present, is sufficient to prove willful desertion without any valid reason. The marriage between the appellant and the respondent was solemnised on 09.09.2013. When their daughter was aged about 4 years and their son about 2 years, the respondent took both children to her parental home and has not rejoined the appellant thereafter. In the Divorce Petition, it is further alleged that when the appellant went to his in-laws' house to bring back his wife, she refused to join him and also threatened to kill the children if he insisted on reunion. Though this allegation has not been proved, the consistent non-participation of the respondent in the proceedings before this Court despite service of notice indicates that she is not inclined to resume cohabitation. She has also not filed any petition for restitution of conjugal rights. Taking note of these circumstances, this Court finds that the withdrawal of the respondent from the marital relationship is willful.

8. Accordingly, this Court allows the appeal. Consequently, the order



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passed in F.C.O.P No.478 of 2018 dated 07.01.2022 is set aside, and the marriage solemnised between the appellant and the respondent on 09.09.2013 at Kodumudi, Erode District, stands dissolved. Insofar as the maintenance awarded by the Family Court, Namakkal, the same is confirmed. No order as to costs. Consequently, the connected miscellaneous petitions, if any, shall stand closed. If the respondent is inclined to seek enhancement of maintenance, it is open to her to make an appropriate application before the competent court.

(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

1. The District Judge,
Family Court, Namakkal.



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