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C.M.A.No.1240 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.1240 of 2023

Sharmila @ Shanmugapriya

..Appellant

Vs.

Vinoth @ Vijayakumar

..Respondent

Prayer: The Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts, Act, 1984, r/w Section 28 of the Hindu Marriage Act, 1955 to set aside the order and decretal order dated 03.03.2023 made in H.M.O.P.No.108 of 2020 on the file of the Family Court, Salem.

For Appellant : Mr.P. Suresh Babu

For Respondent : Mrs.S.Kalaiselvi

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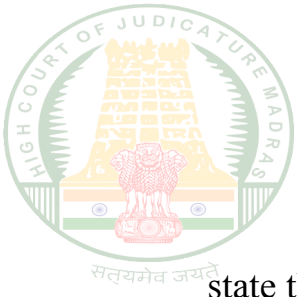
JUDGMENT

*(Judgment of the Court was delivered by **J. Nisha Banu, J**)*

The present Civil Miscellaneous Appeal has been filed to set aside the order and decretal order dated 03.03.2023 made in H.M.O.P.No.108 of 2020 on the file of the Family Court, Salem.

2. On perusal of the records, it is seen that H.M.O.P.No.108 of 2020 was filed by the appellant/wife for divorce on the ground of cruelty and the same was dismissed by the Court below. The petition filed by the respondent/husband for restitution of conjugal rights was also dismissed. The learned counsel for the respondent has produced a copy of the case status showing that the petition filed for restitution of conjugal rights was dismissed for default.

3. The learned counsel for the respondent/husband would state that the appellant/wife and the respondent/husband lived together only for a period of four months and thereafter, from the year 2019, they are living separately. Hence, there is no possibility of reunion. He would further



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state that now the husband is willing for divorce.

4. Considering the fact that both the parties are willing for divorce and the petition filed for restitution of conjugal rights was also dismissed for default and in the interest of justice, we are of the opinion that the judgment and decree dated 03.03.2023 are liable to be set aside. Accordingly, the judgment and decree dated 03.03.2023 made in H.M.O.P.No.108 of 2020 passed by the learned Judge, Family Court, Salem are hereby set aside. The marriage solemnized between the appellant and the respondent on 10.03.2019 is dissolved and a decree of divorce is granted. Accordingly, the Civil Miscellaneous Appeal is allowed. There shall be no order as to costs.

(J.N.B, J.) (R.S.V, J.)
21.01.2025

asi

To

The Judge,
Family Court, Salem.



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J. NISHA BANU, J.
and
R.SAKTHIVEL, J.

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