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C.M.A.No.2168 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

C.M.A.No.2168 of 2025
and C.M.P. No.18665 of 2025

Joseph Clement Raj C.M.
S/o. Cencetty Michael

... Appellant / 2nd Petitioner.

VS.

Beno Zephine N.L.
W/o. Joseph Clement Raj

... Respondent / 1st Petitioner.

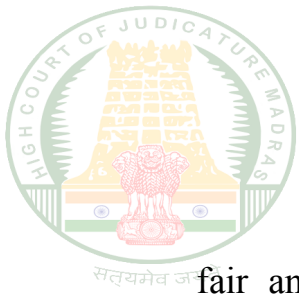
PRAYER: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1994 to set aside the Judgment and decree dated 19.04.2025 in O.P. No.1391 of 2015 passed by the learned Principal Judge, Family Court, Chennai.

For Appellant : Mr.K.P. Sathish Kumar

JUDGMENT

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

This Civil Miscellaneous Appeal has been preferred as against the



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fair and decreetal order passed by the Principal Judge, Family Court, Chennai in O.P. No.1391 of 2025 dated 19.04.2025, wherein the appellant along with the respondent jointly filed a petition under Section 10-A of the Indian Divorce Act for dissolving the marriage solemnized between them by mutual consent and the same was allowed by dissolving their marriage. Aggrieved by the said order, the present appeal has been preferred by the husband.

2. Before the Family Court, the respondent, along with the petitioner, have jointly filed a petition under Section 10-A of the Divorce Act for dissolving the marriage solemnized between them on 11.12.2016 at National Shrine of St. Thomas Basilica, Santhome, Mylapore, Chennai. Thereafter, the Family Court examined the parties, where the appellant was examined as PW2 and the respondent was examined as PW1 and Ex.P.1 to Ex.P.9 were marked. Thereafter, the Family Court allowed the petition and granted divorce on mutual consent.

3. The learned counsel appearing for the appellant would submit that the respondent wife filed a petition before the Family Court in O.P. No.1391 of 2025 and this appellant had also joined as co-petitioner on the



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coercion of the respondent and filed a petition for divorce by mutual consent. The marriage between the appellant and the respondent was solemnized on 11.12.2016 at National Shrine of St. Thomas Basilica, Santhome, Mylapore, Chennai as per the Christian rites and customs. Out of the wedlock, they got two children aged about 7 and 5 years respectively. The appellant and the respondent had a good relationship till the date of filing of the above said divorce petition. The respondent wife is totally blind by birth and was brought up by her father and her mother was a mentally ill person. The respondent was a Second Secretary at Indian Embassy at Parris, France and at present, she is working as First Secretary, Indian Embassy, Kulalumpur, Malaysia. The respondent's father was a caretaker of the respondent and her children at Malaysia. He was separated from the respondent and now the children are facing panic situation. The trial Court without considering the above said facts, passed a decree of dissolution of marriage. The appellant along with the respondent filed the original petition for divorce under mutual consent under force and coercion and the fraud played by the respondent. The respondent under her influence brought the appellant to the Family Court Complex at Chennai and until then, the appellant does not know that they are going to file a petition for divorce under mutual consent. Under coercion, force and fraud



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played by the respondent, the appellant without any choice, on fearing the life of the children, has signed in the mutual consent petition in the Family Court Building and presented the petition on 02.04.2025. Immediately, the Family Court on 07.04.2025, passed the order without following the guidelines issued by the Hon'ble Supreme Court in Amadeep Singh vs. Harveen Kaur reported in 2017 (8) SCC 746. Therefore, the order passed by the Family Court is liable to be set aside.

4. This Court heard the appellant's sides and perused the materials available on record.

5. The Family Court passed the order based on the petition filed by the appellant and the respondent under Section 10-A of the Divorce Act by mutual consent. Before the Family Court, on the date of presentation of petition, both the appellant as well as the respondent were present. Thereafter, on 07.04.2025, both the parties appeared and they were examined as witnesses. The respondent was examined as PW1 and the appellant was examined as PW2. They also marked Ex.P.1 to Ex.P.9. Thereafter, the Family Court passed the order by dissolving the marriage between them on mutual consent. According to the appellant, the above



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said decree was obtained by playing fraud. To substantiate the above said contention, there are no any records produced by the appellant. Moreover, in one place, the appellant stated that the respondent coerced the appellant and he put his signature in the mutual consent petition and in another place, without his knowledge, the respondent had taken the appellant to the Family Court Complex, where he signed in the petition. Therefore, the contentions of the appellant are contrary to each other in respect of the presentation of the petition. Moreover, the appellant himself was examined as a witness before the Family Court and prior to that, both the parties appeared before the Family Court and presented the petition. Thereafter only, the Family Court examined the witnesses on 07.04.2025. Therefore, the contention of the appellant are not acceptable. Moreover, as per Section 19 of the Family Court Act, the appellant shall not lie as against the order passed on consent of the parties.

Section 19 of the Family Court Act reads as follows:

19. Appeal.—(1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908) or in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law, an appeal shall lie from every judgment or order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law.

(2) No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties [or from an order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974):



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Provided that nothing in this sub-section shall apply to any appeal pending before a High Court or any order passed under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) before the commencement of the Family Courts (Amendment) Act, 1991].

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order of a Family Court.

(4) The High Court may, of its own motion or otherwise, call for and examine the record of any proceeding in which the Family Court situate within its jurisdiction passed an order under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974) for the purpose of satisfying itself as to the correctness, legality or propriety of the order, not being an interlocutory order, and as to the regularity of such proceeding.]

(5) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, order or decree of a Family Court.

(6) An appeal preferred under sub-section (1) shall be heard by a Bench consisting of two or more Judges.

6. Therefore, this appeal cannot be entertained and the appeal is liable to be dismissed without issuing notice to the respondent at the admission stage itself.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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

06.08.2025

mjs

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Neutral Citation: Yes/No



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

(mjs)

To

The Principal Judge,
Family Court,
Chennai.

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