



C.M.A.No.2646 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

CORAM

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

C.M.A.No.2646 of 2024
and
C.M.P.No.21125 of 2024

R.Vinitha
D/o Ramachandran

..Appellant

Vs.

G.Mathiazhagan,
S/o Govindu

... Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act to set aside the fair and decretal order dated 11.06.2024 in O.P.No.3660 of 2023 on the file of Principal Family Court at Chennai and allow the Civil Miscellaneous Appeal.

For Appellant : Mr.D.Ramalingam

For Respondent : MrA.Prabakaran



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JUDGMENT

WEB COPY (The judgment of the Court was delivered by J.Nisha Banu,J.)

The above Civil Miscellaneous Appeal has been filed by the appellant/wife against the fair and decretal order dated 11.06.2024 passed in O.P.No.3660 of 2023 by the Principal Family Court at Chennai. The said O.P., filed for dissolution of marriage by mutual consent by both the appellant and the respondent, was allowed by the Family Court.

2. The above appeal has been filed by the appellant/wife stating that only based on the undertaking and assurance given by the respondent/husband, the appellant/wife consented for divorce and the trial Court granted divorce on mutual consent. However, the respondent failed to comply with the conditions and the trial failed to consider the non-compliance of the conditions on the part of the respondent/husband.

3. Today, an affidavit has been filed by the respondent which reads as follows:

I, G.Mathiazhagan, S/o Govindu, Hindu aged about 39 years, residing at No.6, North Street,



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Kanagachettikulam, Pondicherry - 605 014, now come down to Chennai and do hereby solemnly affirm and sincerely state as follows:

1. I am the Respondent in the Civil Miscellaneous Appeal and as such I am fully acquainted with the facts of the case and competent to file this affidavit.

2. I submit that the present Civil Miscellaneous Appeal was filed by the Appellant herein as against the order granting divorce by Hon'ble Principal Judge Family Court, Chennai dated 11.06.2024 in O.P.No.3660/2023.

3. I submit that earlier I filed divorce on the ground of cruelty and desertion in H.M.O.P.No.334/2019 on the file of Family Court, Pondicherry, as against the Appellant herein subsequently the same was transferred to the Hon'ble Principal Judge Family Court, Madras and renumbered as HMOP No.3899/2022. In pursuant to thereof mediation was held and due settlement dated 24.07.2023 was executed, thereby we both agreed to file petition for Divorce on mutual consent and I further agreed to withdraw the divorce application filed as aforesaid.

4. I submit that except the household articles, the jewelry belonging to us were exchanged and I, further



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agreed to return back the household articles to the Appellant at the time of presentation of mutual consent petition. That apart, I further agreed to pay a sum of Rs.1,00,000/- to the Appellant and to take fixed deposit in the name of the daughter Minor.Rubisha for a sum of Rs.9,00,000/-.

5. I submit that at the time of presentation of Divorce petition on mutual consent, all the household articles belonging to the Appellant were returned back and permanent alimony a sum of Rs.1 lakh was also paid to the Appellant and fixed deposit in the name of minor child was taken for sum of Rs.9,00,000/- at SBI Koonimedu, ECR branch, vice account No.43988938202 on 21.05.2024, having its maturity date 25.06.2025.

6. I submit that as against the order granting divorce on mutual consent dated 11.06.2024 in O.P.No.3660/2023, the present Appeal was filed by Appellant, whereby the Appellant alleged that the belonging owned by her amounting a sum of Rs.5 lakhs has not been exchanged. Though all the articles belonging to us already been exchanged, I specifically agreed to pay a sum of Rs.2,00,000/- towards the claim made by the Appellant. In furtherance thereof today - 27.01.2025, I have taken Demand Draft dated 23.01.2025 drawn in the name of Appellant for a sum of



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Rs.2,00,000/- drawn at SBI vide No.162705 and the same was handover to the Appellant and I further undertake to revalidate the fixed deposit taken in the name of the minor child on its maturity date viz., 25.06.2025 together with accrued maturity value of the said term deposit in the name of the minor child Miss M.Rubisha, represented by her mother R.Vinitha- the Appellant herein and I further agreed to handover the original term deposit to the Appellant immediately thereof. Hence, this Affidavit is sworned.

Therefore, it is humbly prayed that this Hon'ble Court may be pleased to record this Affidavit and to pass necessary orders in the circumstances of the case and thus render justice."

4. The above affidavit filed by the respondent/husband is recorded.

From the said affidavit, it is seen that the fixed deposit for a sum of Rs.9,00,000/- taken in the name of the minor child matures on 25.06.2025.

5. Considering the affidavit filed by the respondent, we are of the opinion that the respondent may be directed to hand over the Fixed Deposit Certificate taken in the name of the child after its maturity,



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which is also agreeable by the appellant. Accordingly, this Court directs the respondent/husband to renew/revalidate the fixed deposit certificate along with accrued interest in the name of the minor child *M.Rubisha*, immediately after its maturity, and thereafter, hand over the fixed deposit certificate to the appellant viz., R.Vinitha, forthwith.

6.With the above direction, Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(J.N.B, J.) (R.S.V., J.)
27.01.2025

vsi

To

1. The Principal Family Court at Chennai
Chennai.
2. The Manager, State Bank of India,
Koonimedu, ECR Branch, Chennai.
3. The Section Officer, Vernacular Records,
High Court, Madras



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