



C.M.A.Nos.2624 & 2625 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2025

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.Nos.2624 & 2625 of 2017

S.Kalavathy ... Appellant in both appeals

vs

U.R.Srinivasan ... Respondent in both appeals

PRAYER : C.M.A.No.2624 of 2017 is filed against the order, dated 12.04.2017, passed in H.M.O.P.No.78 of 2014 on the file of Family Court, Erode.

PRAYER : C.M.A.No.2625 of 2017 is filed against the order, dated 12.04.2017, passed in H.M.O.P.No.607 of 2014 on the file of Family Court, Erode.

For Appellant in both appeals : Mr.M.Karthik,
for Mr.I.C.Vasudevan.

For Respondent in both appeals : Mr.R.P.Ruban Chakravarthy,
for Mr.S.Kaithamalai Kumaran.



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JUDGMENT

(By Dr.G.Jayachandran,J.)

U.R.Srinivasan - husband and S.Kalavathy - wife are the parties before this Court in these two Civil Miscellaneous Appeals, arising out of the order passed by the Family Court, Erode, in two different proceedings, one in H.M.O.P.No.78 of 2014, filed by husband, and the other in H.M.O.P.No.607 of 2014, filed by wife.

2. The sum and substance of the dispute between the parties is that they got married on 05.12.2003 and had a nucleus family. A female child was born to them on 16.09.2004. On 21.02.2010, they got separated.

3. Husband, in his petition for divorce filed under Section 13 (1) (i-a) and (i-b) of the Hindu Marriage Act,1955, had alleged that his wife, for no reasons, used to quarrel with him and threatened to commit suicide. At last, on 21.02.2010, without any reason, after demolishing the household articles, left the matrimonial home. All his efforts for re-union ended in futility.

4. In the petition filed by wife under Section 9 of the Hindu Marriage Act,1955, she contended that due to cruelty and ill-treatment of her mother-in-law, she was not able to live with her husband. She was treated as housemaid and there was no kindness or affection shown to her by her



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mother-in-law. Though elders advised her husband to set up separate nucleus family, he did not heed to their advise and, therefore, she was forced to leave the matrimonial home on 21.02.2010 temporarily till her husband set up a separate house for marital living. Alleging that instead of establishing a nucleus family, her husband filed a divorce petition, raising unviable grounds. The parties contested the matter and adduced evidence to substantiate their respective claims.

5. The Family Court, in separate orders, allowed the petition for divorce filed by husband, on the ground that withdrawal of consortium by wife was not justifiable, and, taking into account that there was a prolonged separation without any scope of re-union, the marital relationship had broken irretrievably, and, relying on the dictum laid down by the Supreme Court in *Samer Ghosh v. Jaya Ghosh*, 2007 (4) SCC 511, allowed the petition for divorce and dismissed the petition filed by wife for restitution of conjugal rights, on the ground that wife cannot compel her husband to part company of his mother and set up a nuclear family, deserting his old aged mother. Being aggrieved by these observations to hold against her, wife has preferred these Civil Miscellaneous Appeals.

6. On hearing the counsel appearing for the parties, this Court confirms that the parties, after marriage, had lived for a few years, and, from



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21.02.2010, got separated and no intention for re-union unconditionally. The only grievance, as found from the grounds of appeal and the submissions made by the counsel for the appellant - wife is, the observation of the Family Court that she had wilfully withdrawn from the marital relationship on a flimsy ground, namely, her husband should desert his mother and have a separate family.

7. This Court is not inclined to venture into the truthfulness of the said allegation, while the bare fact remains that the parties are not inclined to revive their marital relationship when the breakdown is continuing for more than fifteen years. So, applying the dictum laid down by the Apex Court in *Samer Ghosh's* case, cited above, the marriage between the appellant and the respondent, solemnised on 05.12.2003, is to be dissolved. The decree of dissolution of marriage passed by the Family Court in H.M.O.P.No.78 of 2014 is hereby confirmed.

8. Civil Miscellaneous Appeals stand dismissed accordingly. No costs. Consequently, the connected C.M.P.No.14369 of 2017 is closed.

dixit

(DR.G.J.,J.) (M.S.K.,J.)
26.09.2025



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To

Family Court,
Erode.



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dixit

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