



WEB COPY



C.M.A.No.2618 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.11.2025

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN

and

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.No.2618 of 2018

and CMP No.19763 of 2018

Mrs.G.Maria Sangeetha

.... Appellant

V.

Mr.V.Karthik

.... Respondent

Prayer:Civil Miscellaneous Appeal has been filed under Section 19 of the Family Court Act 1984, against the judgment and decree dated 12.07.2018 made in O.P.No.4185 of 2017 on the file of the IV Additional Family Court,



C.M.A.No.2618 of 2018

Chennai.

For Appellant :Ms.R.Priyadharshini
for Mr.L.Palanimuthu

For Respondent :No appearance

J U D G M E N T

Dr.G.Jayachandran, J.

Appeal by the wife who before the Family Court had consented for divorce but now challenging the decree of dissolution of marriage on the ground that there was misstatement of fact and fraud played on her by the respondent to get dissolution of marriage.

2. According to the appellant, the custody of the minor daughter was agreed to be with her, however, the husband is retaining the custody by way



C.M.A.No.2618 of 2018

of misrepresentation and the learned counsel, to emphasize that there was misrepresentation on the part of the husband, points out the observation of the Family Court Judge who had stated that out of the wedlock they were blessed with a female child, born on 09.12.2013 named as Irene Joyce, who is under the care and custody of the 1st petitioner (V.Karthik – husband).

3. Since serious allegation regarding the custody of the child has been made by the appellant, who has actually consented for the divorce, this Court thought it fit to call for the original records to verify. Accordingly, records have been received and we have given our conscious and careful consideration over the records.

4. The petition for divorce by mutual consent under Section 10-A(1) of the Indian Divorce Act, 1869 been jointly presented by the appellant and the respondent before the Family Court, Chennai on 18.11.2017. Regarding the custody of the child, it is stated in paragraph 12 of the joint petition as below:



WEB COPY



C.M.A.No.2618 of 2018

12. The petitioners state that now the minor child is in the custody of the 2nd petitioner for which there is no objection for the 1st petitioner. Further the 1st petitioner undertakes to spend all the expenses to the minor child for her education.

5. The parties were examined by the Family Court on 02.07.2018, wherein the proof affidavit of the husband in paragraph 3 is stated that *the daughter Irene Joyce was born on 09.12.2013 and now she is under the custody of the first petitioner, i.e., Karthik – husband.*

6. However, in paragraph 12 of the same proof affidavit, it is stated as follows:

'12.I submit sate that now the minor child is in the custody of the 2nd petitioner for which there is no objection for the 1st petitioner. Further the 1st petitioner undertakes to spend all the expenses to the minor child for her education.'

7. The proof affidavit which is more important to consider the grounds raised in this appeal states at paragraph 3 that the minor child is under her custody. In Paragraph 12 also it is reiterated that the minor child is under her custody and her husband has no objection. While so, the typographical error found in the order passed by the Family Court by



C.M.A.No.2618 of 2018

mentioning 1st petitioner instead of 2nd petitioner in paragraph 4 of the order

is now been taken advantage of the appellant herein to challenge the consent order of divorce.

8. Learned counsel for the appellant submits that the child is continued to be in her custody. However, taking advantage of the error in the order, the respondent is not paying any money to meet out the expenses for her as well as for the minor child for her education.

9. We make it very clear that the parties are bound by the terms of agreement upon which the marriage was dissolved. If there is any breach, particularly, paragraph 12 of the proof affidavit filed by the husband, it is open to the appellant herein to seek for appropriate remedy before the appropriate Court for maintenance and expenses. Challenging the consent order is not a remedy available to her. Hence, this appeal stands dismissed with the liberty stated above. No costs. Connected Miscellaneous Petition is also dismissed.



C.M.A.No.2618 of 2018

(Dr.G.J.J.) & (M.S.K.J.)

21.11.2025

WEB COPY

Index:yes/no

Internet:yes

Speaking order/non speaking order

Neutral citation:yes/no

sl

To

The IV Additional Family Court, Chennai



WEB COPY



C.M.A.No.2618 of 2018

Dr.G.JAYACHANDRAN, J.
and
MUMMINENI SUDHEER KUMAR,J.

S1

C.M.A.No.2618 of 2018
and CMP No.19763 of 2018



WEB COPY



C.M.A.No.2618 of 2018

21.11.2025