



C.M.A(MD) No.1741 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 06.01.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**C.M.A(MD) No.1741 of 2024
and
C.M.P.(MD)No.18903 of 2024**

K.Manikandan

... Appellant / Petitioner

Vs.

P.Kavitha

... Respondent / Petitioner

COMMON PRAYER: Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act, to set aside the fair and decretal order dated 17.07.2023 made in H.M.O.P.No.190 of 2023 on the file of the Family Court, Theni.

For Appellant : Mr.T.Sivananthan

For Respondent : Mr.K.Appadurai



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COMMON ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The appellant herein filed H.M.O.P.No.190 of 2023 before the Family Court, Theni seeking dissolution of his marriage with the respondent. When H.M.O.P.No.190 of 2023 was listed for hearing on 17.07.2023, the respondent produced copy of the order in H.M.O.P.No. 701 of 2022 which was filed under Section 9 of Hindu Marriage Act. The said H.M.O.P was allowed on 29.11.2022. Citing the said order, H.M.O.P.No.190 of 2023 was dismissed as not maintainable. Challenging the same, this civil miscellaneous appeal had been filed.

3. The learned counsel on either side admitted that set aside petition was filed by the appellant in I.A.Nos.1 & 2 of 2023 in H.M.O.P.No.701 of 2022. I.As were allowed on 26.02.2024. Now, H.M.O.P.No.701 of 2022 has been taken on file for fresh consideration.



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4. In these circumstances, the impugned order dated 17.07.2023 dismissing H.M.O.P.No.190 of 2023 as not maintainable cannot hold good any longer. In this view of the matter, the impugned order is set aside. The matter is remitted to the file of the learned Family Judge, Theni to hear H.M.O.P.No.190 of 2023 afresh on merits and in accordance with law. The Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (R.P., J.)
06.01.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
rmi

NOTE: Issue Order Copy on 07.01.2025

To

The Family Court, Theni.



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