



A.S(MD)No.355 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.12.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

A.S(MD)No.355 of 2025

and

C.M.P(MD)No.13745 of 2025

1.The Tamil Nadu State Transport
Corporation,
Represented through its
General Manager,
Kumbakonam Limited,
Karaikudi Zone,
Karaikudi,
Sivagangai District.

2.The Tamil Nadu State Transport
Corporation,
Represented through its
Assistant Manager,
Provident Funds,
Kumbakonam Limited,
Karaikudi Zone,
Karaikudi,
Sivagangai District.

... Appellants /
Defendants

Vs.

1.R.Kasthuri

... 1st Respondent /
Plaintiff



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2.The Principal Secretary to Government,
Transport Department,
Fort St.George,
Chennai – 600 009.

... Respondent /
Defendant

Prayer: Appeal Suit filed under Section 96 of the Civil Procedure Code to set aside the judgment and decree dated 09.04.2025 passed in O.S.No. 53 of 2019 on the file of the Family Court Judge, Madurai, by allowing this Appeal suit and decree the suit.

For Appellants : Mr.R.Baskaran
Additional Advocate General
Assisted by
Mr.K.Ramaiah

For Respondents : Mr.A.Haja Mohideen
for R.1

Mr.A.Baskaran
Additional Government Pleader
for R.2

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

The contesting defendants in O.S.No.53 of 2019 on the file of the Family Court, Madurai are the appellants herein. The said suit was instituted by the first respondent herein seeking declaration that she is the legally wedded wife of one Raman(deceased) and for directing the defendants to sanction family pension to her with effect from the date of death of her husband i.e., 29.10.2009.



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2.The appellants herein filed written statement opposing the suit prayer. Based on the rival pleadings, the trial Court framed the necessary issues. The plaintiff examined herself as PW1 and 3 other witnesses on her side. Ex.A1 to Ex.A14 were marked. On the side of the appellant corporation, one official by name Ramesh was examined as DW1. Ex.D1 to Ex.D4 were marked. After considering the evidence on record, the trial Court decreed the suit as prayed for on 09.04.2025. Questioning the same, this first Appeal has been filed.

3.The learned Additional Advocate General appearing for the appellants reiterated all the contentions set out in the grounds of appeal and called upon this Court to set aside the impugned judgment and decree and allow the appeal as prayed for.

4.Per contra, the learned counsel appearing for the plaintiff submitted that the impugned judgment of the Family Court is well reasoned and that it does not call for interference.

5.We carefully considered the rival contentions and went through the evidence on record.



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6.The points that arise for determination are as follows:

a) Whether the Family Court was correct in declaring that the plaintiff is the legally wedded wife of the deceased Raman?

b) Whether the Family Court had jurisdiction to grant the consequential relief of sanctioning pension in favour of the plaintiff?

7.It is not in dispute that Raman was working as a conductor in the appellant corporation. He was later promoted as checking inspector. He retired from service and was receiving pension. He passed away on 28.10.2009, whereupon the management stopped paying pension. The plaintiff made a claim that she was the legally wedded wife of the deceased employee and that therefore pension should be paid to her. The management did not accept the said request. That led to the institution of O.S.No.53 of 2019.

8.It is not in dispute that the plaintiff, Kasthuri got married to one Raman and 3 children were born through the wedlock. However, according to the management, the matrimonial relationship came under strain and Kasthuri left the matrimonial home. On the side of the Management, Ex.D1 dated 13.11.2005, a divorce deed entered into



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between the plaintiff and Raman was marked. The management also marked Ex.D2 letter given by Raman calling upon them not to make any payment to the plaintiff. Raman also did not enter the name of the plaintiff in his service register.

9. The first question that calls for consideration is whether for the reasons mentioned above, the plaintiff should have been denied relief. All the factual aspects put forth by the management appear to be true. However, we are not concerned with their veracity. We are concerned only with the legal effect of Ex.D1 and Ex.D2. Raman as well as Kasthuri are Hindus. Their marriage is admitted. Any marriage solemnised in terms of the Hindu Marriage Act, 1955 can be dissolved only in the manner laid down in the said Act i.e., by presenting a petition under Section 13 or 13-B of the Act. In the case on hand, no such petition was filed. Of course, Section 29(2) of the Act states that nothing contained in the Act shall be deemed to affect any right recognised by custom or conferred by any special enactment to obtain the dissolution of a Hindu marriage. In other words, Hindu marriage can be dissolved through a customary divorce deed, provided the existence of such a customary right is established (*Sanjana Kumari Vs. Vijay Kumar*



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(2023LiveLaw (SC) 848). Any custom being an exception to the general law of divorce ought to be specially pleaded and established by the party propounding such custom (*Yamanaji H. Jadhav Vs. Nirmala* ((2002) 2 SCC 637). Far from establishing the existence of such a custom in the case of the plaintiff's community, the appellants did not even plead that the case on hand would fall within the aforesaid Savings Clause. We, therefore, hold that the plaintiff's marriage with the said Raman cannot be said to have been dissolved on execution of Ex.D.1 divorce deed. The Family Court was justified in granting the declaration sought for by the plaintiff.

10. The second part of the suit prayer pertains to disbursement of family pension. The question that arises is whether this would attract the jurisdiction of the Family Court. Section 7 of the Family Courts Act, 1984 reads as follows:

“7. Jurisdiction.—(1) *Subject to the other provisions of this Act, a Family Court shall—*

(a) have and exercise all the jurisdiction exercisable by any district court or any subordinate civil court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation; and



(b) be deemed, for the purposes of exercising such jurisdiction under such law, to be a district court or, as the case may be, such subordinate civil court for the area to which the jurisdiction of the Family Court extends.

Explanation.—The suits and proceedings referred to in this sub-section are suits and proceedings of the following nature, namely:—

(a) a suit or proceeding between the parties to a marriage for a decree of nullity of marriage (declaring the marriage to be null and void or, as the case may be, annulling the marriage) or restitution of conjugal rights or judicial separation or dissolution of marriage;

(b) a suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person;

(c) a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them;

(d) a suit or proceeding for an order or injunction in circumstance arising out of a marital relationship;

(e) a suit or proceeding for a declaration as to the legitimacy of any person;

(f) a suit or proceeding for maintenance;

(g) a suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.



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(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise—

(a) the jurisdiction exercisable by a Magistrate of the first class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 (2 of 1974); and

(b) such other jurisdiction as may be conferred on it by any other enactment.”

A bare reading of the aforesaid provision indicates that the Family Court would have and is entitled to exercise all the jurisdiction exercisable by any District Court or any Subordinate Civil Court. The categories of suits or proceedings that can be instituted in a Family Court have been set out in explanation (a) to (g) of Section 7 of the Act. The expression “between the parties to a marriage” is found in (a) and (c). The instant suit was filed by a person claiming to be a wife. The husband was not a party as he had already passed away. The employer was made as the defendant. The plaintiff sought declaration of her marital status. This would fall within category (b). Category (b) suit or proceeding need not necessarily be between parties to the marriage. Such a suit was very much maintainable even as against the employer. The plaintiff apart from seeking declaration regarding her status also sought disbursement of family pension. This would attract category (d). If the employer is the



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Central Government, such a relief being a service matter could be granted only by the Administrative Tribunal. But the employer of the plaintiff's husband was the State Transport Corporation. Hence, relief was rightly granted to the plaintiff. The question to be posed in such cases is whether the jurisdictional District Court or the Sub Court could have granted the relief sought for and whether the suit or proceeding falls within one of the categories set out in Explanation to Section 7 of the Act. If the answer is in the affirmative, the Family Court will have the jurisdiction to grant relief. Parliament enacted the Family Courts Act with a view to secure speedy settlement of disputes relating to marriage and family affairs, and matters connected therewith. The question of payment of pension to the plaintiff is inextricably linked to her status as the wife of the deceased employee and therefore, the Court below was justified in holding that the plaintiff is entitled to pension.

11.Be that as it may, as rightly pointed out by the learned Additional Advocate General, it is only the Pension Trust of the Corporation that administers the pension disbursements. It is an independent entity by itself and was not made a party to the proceedings. Therefore, the appellants, who are not the authorities competent to



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disburse the pension, cannot be fastened with the said liability. The impugned decree is modified accordingly. Though the Pension Trust is not a party to the present proceedings, we direct that it should honour the decree passed by the Family Court. It is not fair to vex a widow by making her to file one more suit or writ petition to get what is a mere consequential relief.

12. With the aforesaid observation and direction, this Appeal Suit is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [R.K.M, J.]
12.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA

To
The Principal Secretary to Government,
Transport Department,
Fort St. George,
Chennai – 600 009.

Copy to
The Family Court,
Madurai.



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