



C.M.A.No.2037 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2026

CORAM

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

C.M.A.No.2037 of 2018

Prem Singh

... Appellant

vs

S.Latha

... Respondent

Manthra Happy Home

Ladies Hostel

Rama Flat, Old No.5, New No.7

Natesan Street, Near Rathna Store

T.Nagar, Chennai – 600 017

(amended vide Court order dated 26.03.2018 made in C.M.P.No.2617 of 2018 in C.M.A (SR) No.28416 of 2017)

Prayer: Civil Miscellaneous Appeal filed under Section 19 of Family Court Act against the order and decree dated 05.08.2016 passed by the learned Principal Family Judge of Chennai in H.M.O.P.No.1479 of 2014.

For Appellant : Mr.K.Thilageswaran

For Respondent : Not ready in notice



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JUDGMENT

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[Judgment of the Court was delivered by **C.V. KARTHIKEYAN, J**]

The appeal had been filed by the petitioner in H.M.O.P.No.1479 of 2014 aggrieved by the judgment and decree dated 05.08.2016 dismissing the said Original Petition.

2. The appellant is the husband and respondent is the wife.

3. We need not traverse deeply into the facts of the case, but only examine the procedure and the manner in which the matter was dealt with by the Family Court at Chennai. For reasons best known, H.M.O.P.No.1479 of 2014 had been referred to Mediation to examine the possibility of settlement. It is the contention of the appellant herein that the appellant and respondent participated in the mediation process. The notes papers of the trial Court made on 29.04.2016 reveal that mediation report had been received along with the Memorandum of Understanding. The matter was again examined by the learned trial Judge, who then found that any



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understanding between the parties to dissolve the marriage cannot be accepted by the Court and that it cannot be termed as a lawfully approvable understanding between the parties and cannot be recognized by a Court of law.

4. We have no grievance with that particular observation made by the trial Court, but however thereafter, the learned trial Judge had dismissed the Original Petition. In our opinion, the learned trial Judge should have then referred the matter for trial and given an opportunity for the parties to tender evidence and analysed such evidence to see whether the grounds as stated in the affidavit seeking divorce have been established or not. The dismissal of the petition has now led to the filing this appeal, which has been pending before this Court for the past nearly 6 years.

5. In this appeal, notice had been directed to the respondent. Every effort to serve her have been in vain. The appellant had to take steps to effect service through substituted service.

6. We have consciously not examined the facts of the case, in view of the decision taken by us that an opportunity has to be given to the appellant



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herein, in his status as petitioner in H.M.O.P.No.1479 of 2014, to adduce evidence in support of his pleadings. The dismissal of the divorce petition was not a proper step. Once the parties had entered into an adversarial litigation, then they must be given an opportunity to graze the witness box, tender evidence and produce documents, as are required.

7. Taking that narrow view into consideration, we would set aside the order of dismissal passed by the Family Court at Chennai and remand H.M.O.P.No.1479 of 2014 for fresh hearing. The appellant to appear before the Principal Family Court, Chennai on 24.04.2026. The Principal Family Court may proceed from the stage of issuing notice/summons to the respondent and thereafter take a considered decision on the issues raised in the petition.

8. Accordingly, this appeal stands allowed. The judgment and decree of the Principal Family Court, Chennai dated 05.08.2016 in H.M.O.P.No.1479 of 2014 is set aside. Since the H.M.O.P is of the year 2014, the Principal Family Court, Chennai may endeavour to bestow some additional attention for the disposal of the said petition. There shall be no order as to costs.



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Registry to send back the records in H.M.O.P.No.1479 of 2014

received from the Principal Family Court, Chennai forthwith.

[C.V.K., J] [K.R.S., J]
26.03.2026

Index: Yes/No

Neutral citation: Yes/No

gpa

To

1. The Principal Family Judge
Chennai
2. The Section Officer
VR Section
Madras High Court



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