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CMA(MD) No. 1257 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23-09-2026

CORAM

THE HON'BLE MR JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MRS.JUSTICE M.D.SUMATHI

CMA(MD) No. 1257 of 2024

CNR:{HCMD011004662024}

AND

CMA(MD) NO. 1446 OF 2024



In CMA(MD) No. 1257 of 2024 : -

Vs

..Petitioner(s)

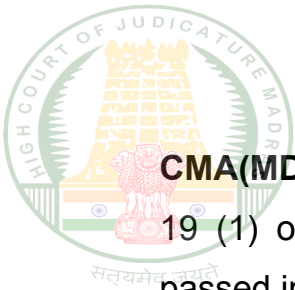
..Respondent(s)

In CMA(MD) No. 1446 of 2024 :

{HCMD011139402024}

..Petitioner (s)

..Respondent(s)



CMA(MD) No. 1257 of 2024 : Civil Miscellaneous Appeal filed under section 19 (1) of the Family Court Act to set aside the Fair and Decreetal order passed in HMOP No.36/2023 dated 01.08.2024 on the file of the Family Court, Theni and pass such further other as this High Court deem and proper and allow the appeal and thus render justice.

CMA(MD) No. 1446 of 2024 : Civil Miscellaneous Appeal filed under Section 19 of Family Court Act, to call for the records relating to the judgment and decree dated on 01-08-2024 made in HMOP.No.84/2022. On the file of Family Court, Theni, set aside the same and allow the civil miscellaneous appeal and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

CMA(MD) No. 1257 of 2024

For Appellant(s): Mr.M.Subash Babu, Senior Counsel for
Mr. C. Susikumar

For Respondent(s): Mr.B.Arun

CMA(MD) No. 1446 of 2024

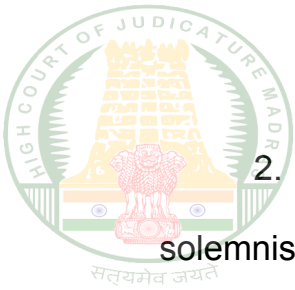
For Appellant(s): Mr.B.Arun

For Respondent(s): Mr.M.Subash Babu, Senior Counsel for
Mr. C. Susikumar

Common Judgment

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

Heard both sides.



2. The marriage between _____ was solemnised on 09.02.2011 at Tiruvannamalai as per Hindu rites and customs.

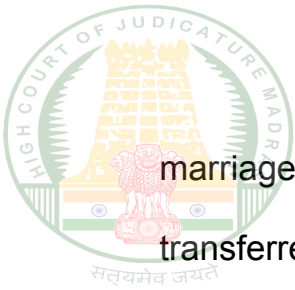
Both were then employed at Sri Venkateshwara Medical College Hospital, Pondicherry. A male child _____ was born on 04.02.2012.

_____ who was already holding M.D degree wanted to pursue further studies. He got a seat in D.M.Cardiology course. To facilitate _____ to realise his full potential, and to bring up the child, Dr.

_____ chose to stay back with her parents at Theni. Dr. _____ was paying regular visits to Theni even as he was undergoing D.M.Cardiology course which he completed in the year 2017. In the meanwhile, one more child

_____ was born on 03.02.2016. Dr. _____ wanted to acquire FNB (Interventional Cardiology) qualification. He continue to make monthly visits as before. This continued till April 2020 when Corona struck. Dr. _____ at last joined Dr. _____ for good. He had no difficulty in being with the in-laws who are pensioners.

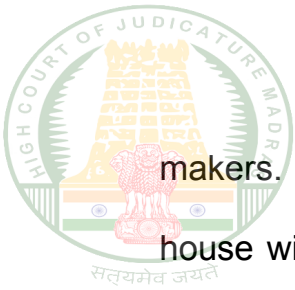
3. Discordant notes began to be struck thereafter. His prospects were brightening on the professional front. He also wanted to move out of the in-laws' house. It appears that this was not acceptable to _____. The situation worsened. Even a physical scuffle appears to have taken place. Dr. _____ filed H.M.O.P.No.84 of 2022 on 17.03.2022 before the Family Court seeking restitution of conjugal rights. Dr. _____ filed petition on 29.04.2022 before the Family Court, Thiruvannamalai for dissolving his



marriage with the respondent on the ground of cruelty. This OP was transferred to Family Court, Theni and re-numbered as H.M.O.P.No.36 of

2023. Both the OPs were taken up together. Dr. examined himself as P.W.1 and marked Ex.P1 to Ex.P5. Dr. examined herself as R.W.1 and marked Ex.R1 to Ex.R4. We do not know how to characterise the approach of the learned Judge who decided the cases. By his order dated 01.08.2024, he dismissed both the petitions. Marriages may make both the parties unhappy. But the outcome of an adversarial litigation must make at least one party happy. But this Judge succeeded in making both unhappy. As a result, both appealed against the order and that is how, they are before us.

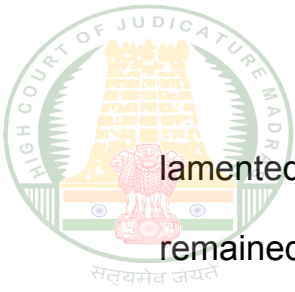
4.Unlike the modern western societies, in Bharathiya culture, it is the family and not the individual which is the foundational unit. Traditionally, the responsibility of raising the financial resource rested on the husband while the wife took care of the domestic front. Both the roles are entitled to equal respect. This position has been changing over the last half a century. Women are also increasingly becoming career oriented. We note that this is taking a toll in many relationships. Particularly, in IT sector and other professions. Marriage is not proving to be a win-win proposition for career women. Since such women see marriage as an impediment to their career prospects, they choose to skip it altogether. The number of unmarried women is on the rise. The situation can probably be remedied if husbands would opt to be home



makers. Till a while ago, women would happily introduce themselves as house wives. These days, they put on an embarrassed look and say “just a house wife”, even though there is nothing to be embarrassed about it. House wives are not “little women”(to borrow the famous title of the book by Louisa May Alcott. She famously said “I would rather be a free spinster and paddle my own canoe”).

5. If there can be house wives, there can be house husbands also. Let this become a new normal. We are of the view that this would help preserve the institution of marriage and family. The expression home maker is gender neutral. Oxford Advanced Learner’s Dictionary defines “home maker” as a person who works at home and takes care of the house and family. The Hon’ble Supreme Court has been underlining the fact that the tasks carried out by a house wife as a home maker have enormous economic value.

6. In the case on hand, the husband was comfortable with a particular arrangement till he qualified himself fully and to his satisfaction. Once he blossomed into a successful professional, the male ego asserted itself in all its “glory”. What worked for a decade and during Covid ceased to be feasible any more. We called both of them to appear in person. It was obvious that the relationship had broken down beyond repair. The husband described the marital relationship as dead. We reminded him that having fathered two children, he has to fulfil his financial obligations. Dr.Aarthi, who is a



lamented that she did not pursue higher studies like her husband and remained content with her B.D.S degree. We could sense that while the

husband was focussing on sharpening his skills, the wife's abilities have become rather blunt. It would have been just if the husband who is professionally successful acknowledges the role played by the wife in taking care of the family by mothering two children. But when the husband abandons midway, the wife is literally left nowhere. We therefore called upon Dr. to make a fair offer. He consented to pay a sum of rupees two and half crores. Dr. was agreeable to this offer. Both agreed that the marriage can be dissolved by a decree of divorce by mutual consent.

7. We are satisfied that the relationship between the parties has broken down beyond repair. They are remaining separate for more than five years. All the statutory conditions that are required for filing a petition under Section 13B of the Hindu Marriage Act, 1955 are present in this case. Considering the pendency of the litigation, we waive the six months cooling period.

8. In this view of the matter, the impugned order dated 1.08.2024 passed by the Family Court, Theni in H.M.O.P.No.84 of 2022 and H.M.O.P.No.36 of 2023 is set aside. The marriage that was solemnized between the parties on 09.02.2011 at Thiruvannamalai is dissolved by a decree of divorce by mutual consent. Dr. shall pay a sum of rupees one and half crores to Dr. by depositing the same in her bank



account within three months from the date of receipt of a copy of this order.

He shall deposit a sum of Rs.50,00,000/- each in favour of the minor children

within a period of one year thereafter. D would be entitled to withdraw

the interest accrued once in six months. The amount so deposited in the

name of minor children can be withdrawn one by one upon the children

attaining majority. The decree of divorce will come into force only upon the

fulfilment of the financial obligations undertaken by Dr. before us.

These Civil Miscellaneous Appeals are disposed of accordingly. No costs.

(G.R.S.,J.) (M.D.S.,J.)
23-09-2026

Index: Yes/No

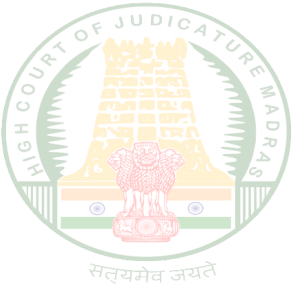
Speaking/Non-speaking order

Neutral Citation: Yes/No

skm

To

The Family Court Judge, Theni



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CMA(MD) No. 1257 of 2



**G.R.SWAMINATHAN J.
AND
M.D.SUMATHI J.**

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**CMA(MD) No. 1257 of 2024
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