

C.M.A.(MD)No.124 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 19.08.2026

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MRS.JUSTICE M.D.SUMATHI**

C.M.A.(MD)No.124 of 2022

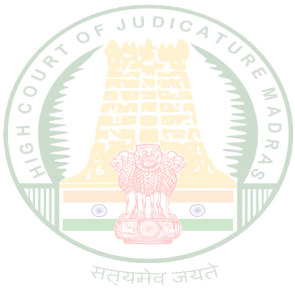
... Appellant / Respondent

Vs.

Prayer : Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, 1984, to set aside the fair and decretal order dated 02.12.2021 passed in H.M.O.P.No.158 of 2019 on the file of the Family Court, Thanjavur and set aside the same.

For Appellant : Mr.S.Louis

For Respondent : Mr.S.Anand Chandrasekar

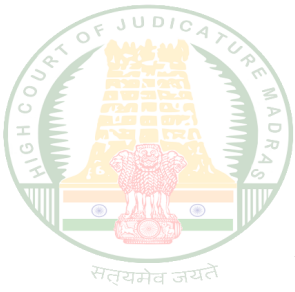


C.M.A.(MD)No.124 of 2022

JUDGMENT

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

The respondent in H.M.O.P.No.158 of 2019 on the file of the Family Court, Thanjavur is the appellant herein. The marriage between the parties took place on 22.11.1990 as per Hindu rites and customs. Two children were born through the wedlock. The parties are remaining separate from each other since 2016. It is also stated that there is no cohabitation between them since 2014. The wife filed H.M.O.P.No.158 of 2019 alleging cruelty and desertion on the part of the appellant. The respondent herein filed counter opposing the prayer for divorce. In support of the claim, the wife examined herself as P.W.1. Children were examined as P.W.2 & P.W.3. Ex.P1 to Ex.P27 were marked. The appellant examined himself as R.W.1. Ex.R1 to Ex.R15 were marked. After hearing both the parties and considering the evidence on record, the Family Court, Thanjavur allowed H.M.O.P.No.158 of 2019 vide order dated 02.12.2021 and dissolved the marriage took place between the parties. Aggrieved by the same, this appeal has been filed.



C.M.A.(MD)No.124 of 2022

2. The learned counsel on either side reiterated the respective contentions. The point that arises for consideration is whether the court below was right in granting the relief of divorce to the wife?

3. As already mentioned, the marriage took place as early as on 22.11.1990. The divorce petition came to be filed some 29 years after the solemnization of the marriage. The respondent herein alleged that following the demise of the appellant's brother, the appellant had developed illicit intimacy with the wife of the deceased brother. This allegation has been strongly denied by the appellant. The respondent herein had sought divorce only on the ground of cruelty and desertion and not on the ground of adultery. In any event, the wife of the deceased brother has also not been made as a party respondent. Therefore, we cannot delve deeply into this allegation regarding adultery.

4. The appellant was employed as Headmaster in the Education Department. The respondent herein was employed in BSNL. The respondent had alleged that the appellant had not contributed towards maintenance or met the educational expenses of the children. Both the



C.M.A.(MD)No.124 of 2022

children have deposed against the father. The respondent had alleged

that when their daughter was given in marriage, the

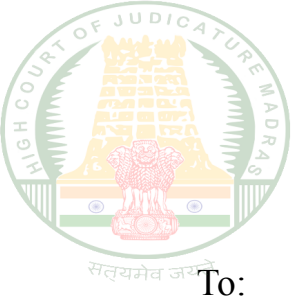
appellant herein did not come forward to attend the necessary rituals.

No doubt, the boycott of the marriage function by father would definitely have caused considerable mental anguish to the mother. This would no doubt qualify as a form of cruelty. Be that as it may, when there is no cohabitation since 2014 and the parties are remaining separate since 2016, this itself in our view would constitute cruelty to both the parties.

5. In this view of the matter, we decline to interfere with the order passed by the court below. This Civil Miscellaneous Appeal stands dismissed. No costs.

(G.R.S. J.,) & (M.D.S. J.,)
19.08.2026

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



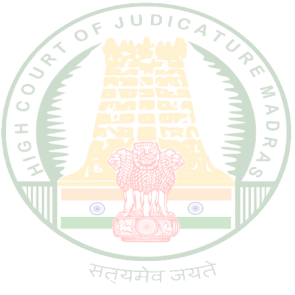
C.M.A.(MD)No.124 of 2022

To:
WEB COPY

The Family Court,
Thanjavur.

Copy to:

The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD)No.124 of 2022

G.R.SWAMINATHAN, J.
and
M.D.SUMATHI, J.

rmi

C.M.A.(MD)No.124 of 2022

19.08.2026