



WEB COPY

CMA No. 2942 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-08-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

and

THE HON'BLE MRS.JUSTICE N. MALA

CMA No. 2942 of 2026

and

CMP No. 22533 of 2026

..Appellant(s)

Vs

..Respondent(s)

Civil Miscellaneous Appeal is filed under Section 19 of the Family Courts Act, 1984, to set aside the Judgment and Decree dated 08.07.2026 passed by the learned Judge, Family Court, Cuddalore, in H.M.O.P. No. 294 of 2022.

For Appellant(s):

Mr.L.Albert Vinod



JUDGMENT

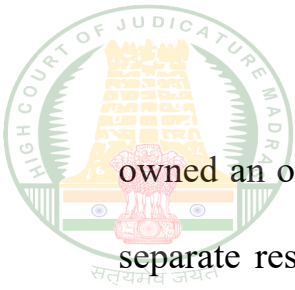
(Judgment of the Court was delivered by N.Mala J.)

(1) The wife has filed the Civil Miscellaneous Appeal challenging the order of the Family Court dated 08.07.2026, passed in H.M.O.P.No.294 of 2022 allowing the petition for divorce filed by the respondent/husband.

(2) The parties will be referred to as per their array in the Civil Miscellaneous Appeal.

(3) The brief facts leading to filing of the above Civil Miscellaneous Appeal are as follows:

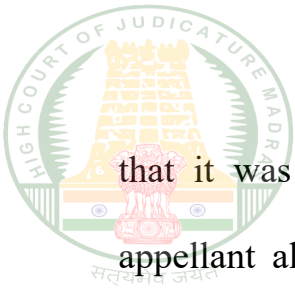
The appellant and the respondent got married on 06.06.2019 at Kalyana Vedhika Thirumana Mahal, Thiruppathi, in the presence of family members, well-wishers and friends. The respondent in his petition alleged that the appellant did not accompany him to the matrimonial home after the marriage and that he had to go to his house alone. The respondent alleged that after much persuasion by him and his parents, the appellant returned to the matrimonial home and that she lived only for two months. Thereafter, she left to her maternal home in the month of Aadi and did not return for four months thereafter. The respondent alleged that despite his and his parents request, the appellant refused to join him and that she used abusive and inappropriate language against him and his parents. The respondent alleged that for the sake of family honor, he tolerated the conduct of the appellant and repeatedly invited her to live with him. The respondent alleged that when he asked the appellant to live with him, she insisted him to set up a separate house for her. The respondent even though



owned an own house, acceded to her request and took a house on lease and set up a separate residence for them. But even thereafter, she stayed only for a month and

coerced the respondent to move to another house nearer to her parents house. The respondent agreed to the same. While so, the respondent alleged that, one day after he returned from work, he found the appellant talking to someone over phone, and when questioned, she escalated the issue, fought with the respondent and left for her maternal home. Thereafter, despite the respondent's repeated requests and for no valid reasons, the appellant refused to live together. Later, the appellant filed a maintenance case against the respondent. Since the respondent felt that the appellant would not resume the matrimonial relation, he filed the divorce petition.

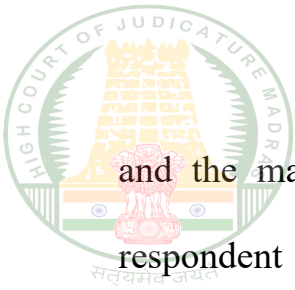
(4) The appellant filed a detailed counter wherein she admitted the marriage. The appellant admitted that the respondent was a B.E. graduate and working in H.D.B. private bank and was earning an income of Rs.45,000/- per month. The appellant alleged that she lived with the respondent happily in the respondent's house, even though the respondent's parents often created problems to her for not bringing dowry. The appellant admitted that they moved to a separate rental house, but she attributed the setting up of separate residence to the problems created by the respondent's parents. She also admitted that they shifted to another house in Manjakuppam near her parental home, but alleged that the respondent borrowed Rs.50,000/- from her brother and refused to return it. However, she admitted that he asked her to sell 2 ½ sovereigns of gold jewellery, belonging to her to repay the same to her brother and use the balance for her medical expenses during pregnancy. The appellant alleged



that it was the respondent who chased her out of the matrimonial home. The appellant alleged that under the situation and in order to protect her child in the womb, she shifted to her parents house. On 16.02.2021, the appellant gave birth to a female child namely ~~XXXXXXXXXX~~. The appellant alleged that since the respondent neglected to maintain her and her daughter, she was forced to file M.C.No.18 of 2020 for maintenance. The appellant alleged that the respondent was having an illicit relationship with another women and that only to deprive her of maintenance and to remarry, he filed the petition for divorce. The appellant alleged that the respondent never saw the child and even during mediation, at the instigation of his father, he refused to take the child. The appellant therefore prayed to dismiss the respondent's petition.

(5) Before the Family Court, the appellant examined himself as P.W1 and marked Exs.P1 to P4. On the side of the respondent, she was examined as R.W1 and no documents were marked. The Family Court on the basis of oral and documentary evidence on record allowed the petition for divorce. Aggrieved against which, the appellant has filed the above Civil Miscellaneous Appeal.

(6) The respondent has sought for a decree for divorce on the ground of cruelty. The acts of cruelty alleged by the respondent are that the appellant often left the matrimonial home without any valid reasons and that she had made some false and defamatory allegations against him. It is seen from the order of the Family Court that the appellant was set *ex parte* on 06.08.2024, and that, on her application, the *ex parte* order was set aside for the first time. Thereafter, the respondent was examined



and the matter was adjourned for several hearings for cross-examination of the respondent by the appellant. After the cross-examination of the respondent, the matter was posted for the appellant's side evidence and again she did not appear for several hearings. The Family Court recorded that despite granting time from October 2025 to February 2026, the appellant did not adduce evidence and since she did not come forward to adduce evidence, her side evidence was closed *suomoto* on 25.02.2026. Later, the respondent's arguments were heard on 04.03.2026 and thereafter the OP was posted for appellant's arguments. On 06.04.2026, the appellant filed recall and reopen application and the same was allowed. The appellant's examination in chief was received, however, she chose not to file any documents and subject herself to cross-examination. After posting the matter for several hearings for arguments of the appellant, the petition was finally disposed on 08.07.2026.

(7) The aforesaid facts reveal that the appellant did not co-operate in the conduct of the trial and that she did not subject herself to cross-examination, so as to controvert the respondent's case. Since the appellant did not adduce any contra evidence, the Family Court on the basis of available materials on record found that the frequent visits of the appellant to her maternal home for no valid reason and without intimating the respondent amounted to cruelty. The Family Court found that the allegation of the appellant that she was driven away from the matrimonial home by the respondent and his parents was not proved by her by leading cogent evidence.

(8) We find even from the averments in the counter affidavit of the appellant that the allegation of the respondent that the appellant pressurized him to set up separate



residence is established. The appellant in her counter affidavit, admitted that after the appellant expressed her unwillingness to live as a joint family, the respondent took a house on rent and set up separate residence and thereafter, he shifted the residence to a place nearer to her parents house. Later, over an escalated petty fight over a telephone conversation, the appellant left for her maternal home.

(9) As rightly pointed out by the Family Court, the respondent despite being an only son of his parents and owning an own house, at the instigation of the appellant, set up a separate residence for them. However, the appellant continued to stay in her maternal home for months together for no valid reasons. The relationship of a husband and wife is a reciprocal relationship and cannot be at the dictates of either of the spouse. The matrimonial bond has to be nurtured with compassion, mutual adjustment and love. The frequent visits of the appellant to her maternal house, leaving the respondent, for no valid reasons, create a sense of insecurity in the respondent's mind and in our view, such frequent separation even, if temporary, for unjustifiable and invalid reasons, amounts to cruelty since the respondent cannot be left with a fear that his wife may pickup a fight with him and leave him at the drop of a hat.

(10) We are also of the view that the appellant having married the respondent knowing fully well that he was the only son of his parents and was he bound to take care of them in their old age, unjustifiably pressurised him to set up separate residence which amounts to cruelty.



(11) We therefore find no merit in the Civil Miscellaneous Appeal and hence, the same is dismissed. The Judgment and Decree dated 08.07.2026, passed by the learned Judge, Family Court, Cuddalore in H.M.O.P.No.294 of 2022, is hereby confirmed.

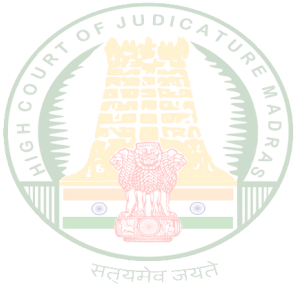
However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(P.T.A.,J.) (N.M.,J.)
27-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
dsn / AP

To
1.The Judge,
Family Court, Cuddalore.

2.The Section Officer
VR Section, High Court,
Chennai.



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**P.T.ASHA J.
and
N.MALA J.**

dsn / AP

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