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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 28.10.2026

Delivered On : 17.11.2026

CORAM

THE HON'BLE DR. JUSTICE P. MURUGAN

C.M.A.(MD) No. 681 of 2022
CNR:{HCMD010544842022}

Case QR

and

CMA(MD) No. 738 of 2022
CNR:{HCMD010544832022}

Case QR

and

C.M.P.(MD) No. 1932 of 2026

R.Bhagiyam … Appellant in both appeals

Vs.

G.Thirumoorthy … Respondent in both appeals

PRAYER in CMA(MD) No. 681 of 2022 : Civil Miscellaneous Appeal filed under section 28 of Hindu marriage Act, 1955, to allow the civil miscellaneous appeal by *setting aside* the order passed in H.M.O.P.No.340 of 2021, dated 30.04.2022 on the file of the Principal District Court, Tiruchirappalli.

PRAYER in CMA(MD) No. 738 of 2022: Civil Miscellaneous Appeal filed under section 28 of the Hindu Marriage Act, 1955, to allow the Civil Miscellaneous Appeal by *setting aside* the order passed in H.M.O.P. No. 81 of 2021, dated 30.04.2022 on the file of the Principal District court, Tiruchirappalli.

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(In both CMAs)

For Appellant : Mr. A.Karthik

For Respondent : Mr. S.Nagarajan

C O M M O N J U D G M E N T

These two appeals have been filed by the unsatisfied wife in the matrimonial proceedings disposed of by the Principal District Court, Trichy, in H.M.O.P. No. 340 of 2021 for divorce filed by the wife, which was dismissed and H.M.O.P.No. 81 of 2021 for restitution of conjugal rights filed by husband, which was allowed.

2. Though the trial Court passed separate orders in both the H.M.O.Ps on 30.04.2022 and two appeals have been filed, after hearing the counsels for the parties, this Court is of the firm view that to avoid repetition, a common judgment is just and necessary. Thereby, in both the cases, this common judgment is passed.

3. The appellant in both the cases is referred as ‘wife’ and alike that the respondent in both the cases is referred as ‘husband’. Though both the cases pleadings are available, for the sake of convenience, a lead case, in H.M.O.P.No.340 of 2021, facts are

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referred subject to prayer sought for in both the cases for the common judgment.

4 (a). H.M.O.P.No.340 of 2021 was filed by the wife for divorce under section 13(1)(i-a) of the Hindu Marriage Act, 1956. The appellant married the respondent on 31.01.2005 at Pillayar Koil, Pudhu Kanjamanur, Uppidmangalam, Karur, as per the Hindu Rites and Customs. Then, they have started their matrimonial life at the respondent's home. Their marriage life was happy and out of the wed lock two children born, namely, T.Kannan and T.Devisri. After some time went, the husband started showing his true colour and his attitudes towards the wife. He was different and started to ill treat the wife.

(b). The husband also doubted the character and fidelity of the wife and beaten the wife. The husband is working as a television mechanic at Thiruppur and earning well. He used to come to the matrimonial home and stay some days. Even for that period, he used to pickup quarrel and beaten her. Then, the husband did not provide any money for household expenses. At the time of marriage, the wife completed only graduation. Out of her own efforts, she passed V.A.O examination and joined in the said post in Manapparai. She

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joined the post only for the welfare of the children. Even without understanding the same, the husband abused the character of the wife by suspicious manner. The husband also forced her to resign her job. It was refused by her. Then, the husband started harassment and torture in a grave manner against the wife.

(c). On 08.05.2019, the husband, his mother and father came to the matrimonial home and abused the wife with filthy language and the husband dragged the children to Thiruppur. When the children refused to go with the husband, even to that aspect, the husband severely beaten up the children. Since the inception of the marriage, the wife is living in great hardship and mental agony. Then, the husband never changed his ways, even after the advise of the elders in the family. The wife lost all her hopes for a peaceful life with the husband. There is no scope for to continue her marital life, therefore, the wife seeks divorce on the ground of cruelty.

5 (a). Brief counter to the divorce petition is as that it is true that the marriage taken between the parties and out of which, two children born. The other aspects that the wife side family has given Sreedhana with house hold articles are denied. It is true that after marriage, both the wife and husband started their matrimonial life at

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Pudhu Kanjamanur. It is true that the husband is working at television mechanic, Tiruppur and visits at matrimonial home once in a week. It is denied that there were frictions or quarrels between the husband and the wife. At no point of time, the husband harassed or threatened or beaten the wife. It is denied that the husband never paid any amount to the wife towards her day-to-day domestic expenses. It is denied that the wife already completed bachelor degree before the marriage.

(b). Only the husband helped the wife to complete the B.C.A. degree and thereafter, with the financial support of the husband, the wife had taken coaching class and finally joined in the VAO post. It is denied that on 08.05.2016, the husband and his parents assaulted and abused the wife. It is also denied that when the husband intend to take the children to Tiruppur, in which the children refused to join with him. The parties are close relatives, even before the marriage. The wife said that there was no financial support and during the marriage, only a few vessels have been given as Sreedhana. The husband's family gifted a four sovereign Mangalsutra chain, a ¾ sovereign Mangalsutra and a ½-sovereign gold coin, totalling 5.25 sovereigns, which are with the wife. The wife threatened the

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husband, if she could not be allowed to go coaching class and following that any job, she will commit suicide, thereby, the husband has spent lot of amount to the wife for coaching class and thereafter she availed the Government job.

(c). After joining the Government job, the wife's character changed, and she began to neglect her responsibilities and live as she pleased, thereby, the divorce petition has been filed. The husband sustained a lot of cruelty and humiliation due to the attitude of his wife. To uplift the wife and the two children, he availed various loans for coaching classes and the studies for his wife as well as the children. Till 2015, the parties lived happily, and thereafter, when the wife joined in government service, she started making unreasonable demands, following which the present petition was filed, thereby, the petition is devoid of merit and liable to be dismissed.

6. Brief facts from the petition filed by the husband for restitution of conjugal rights in H.M.O.P.No.81 of 2021 is more or less the same facts found in the counter filed by the husband in H.M.O.P.No.340 of 2021. The husband helped the wife for doing her B.C.A degree and thereafter spent huge amount for coaching

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class to avail Government employment for the wife. After the wife availed the V.A.O post, the attitude of the wife changed. The husband is ready to live with the wife for the welfare of the two children. Even though the wife filed divorce petition before Principle Sub Court, Tiruchirappalli in H.M.O.P.No.341 of 2016 and the wife is living separately from June, 2016 onwards, the husband is willing to live with the petitioner. Therefore, he filed the restitution of conjugal rights petition.

7. Brief counter of the wife to the restitution of conjugal rights petition, the allegation in which are more or less the same facts found in the divorce petition filed by the wife in H.M.O.P.No.340 of 2021. Having the husband suspected about the character, the wife could not able to live with the husband. Therefore, she prayed to dismiss the restitution of conjugal rights petition.

8. The trial Court dealt with two cases separately and passed separate order on 30.04.2022, in which, the restitution of conjugal rights petition filed by the husband was allowed and consequently, the divorce petition filed by the wife was dismissed.

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9. Before the trial Court, in the divorce petition, P.W.1, R.W.1 were examined and Ex.P1 to Ex.P4 and Ex.R1 to Ex.R4 were marked. In the restitution of conjugal rights petition, P.W.1 and P.W.2, R.W.1 were examined and Ex.P1 to Ex.P6 were marked.

10. After taking into consideration of facts, evidence and arguments advanced by both sides, the trial Court disposed both the cases by separate order dated 30.04.2022, dismissing the divorce petition and allowing the restitution of conjugal rights petition.

11. Against those orders, the wife filed two separate appeals, which are the appeals referred in this common judgment.

12. Heard both sides. Perused the records. Considered the submissions raised by both sides.

13. The points for consideration is as to:

(I) Whether the wife has sustained cruelty from the hands of husband?

(II) Whether the trial Court order dismissing the divorce petition is to be interfered?

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(III) Whether the restitution of conjugal rights order granted to the husband is not correct and it has to be *set aside* and the restitution of conjugal rights petition is to be dismissed?

(IV) To what order?

Point Nos. I to III:

14. Since the wife and husband had filed separate petitions for divorce and restitution of conjugal rights, respectively, and both petitions were disposed of by separate orders, the wife has preferred two separate appeals against the said orders, this Court is of the firm view that a common judgment is required in both the cases, and, the Point Nos. I to III are interconnected and interwovened, to one another, therefore, a common discussion is just and necessary for these three points.

15. From the materials on record and hearing the learned counsel for both parties, there is no dispute about the marriage between the parties and both are Hindus. Out of the wed lock, two children were born are also not in dispute. It is also not in dispute that the husband is working as Television Mechanic at Tiruppur. Prior to the marriage, the wife was not working in any company or Government.

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16. The facts reveal that their marriage was solemnized on 31.01.2005 at PillayarKoil, Pudhu Kanjamanur, Uppidmangalam, Karur, as per the Hindu Rites and Custom. Their marriage was solemnized between 09.00 am and 10.30 am, as per Ex.R1 in H.M.O.P.No.340 of 2021, which is both side invitation (இருவீட்டார் அழைப்பு) on 31.01.2005. Ex.R1 was the marriage invitation printed by both sides families is not disputed by the wife.

17. The wife filed Ex.P1 in H.M.O.P.No.340 of 2021, which is also invitation printed in English by mentioning bride is the person invited to the known friends and families. In that invitation, the date, place of marriage are not in dispute, but, the time of marriage mentioned therein between 06.00 am to 07.30 am. Though there may be a both sides invitation among the elders in the family, they may invite the relatives, friends and known circle, but, the bride had printed a separate invitation to invite her friends in the known sources. But, the Subamugoortha time may not be two times one between 09.00 am to 10.30 am and another between 06.00 am to 07.30 am for the same marriage.

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18. In the given circumstances, the wife P.W.1 in H.M.O.P.No.340 of 2021 was questioned about Ex.P1 invitation in the said case that it was created by the wife only for the purpose of case was denied. There is no proper explanation why the wife filed Ex.P1 in H.M.O.P.No.340 of 2021, wherein in the said case, the husband filed Ex.R1, which says it is both sides family's invitation for the wedding, in which, the time for the Mugoortham was filed between 09.00 am and 10.30 am. Therefore, the wife might have come up with the new printed invitation in Ex.P1 for the purpose of filing the case. However, the Mugoortha time was wrongly mentioned, therefore, it was created for the purpose of case is not ruled out.

19. The divorce case was originally filed before the Principal Sub Court, Tiruchirappalli in H.M.O.P.No.341 of 2016 on 21.10.2016. When the divorce petition was filed, as per the facts narrated in the counter to the divorce petition, the husband stated that the wife joined in the Government post of V.A.O in 2015. After the wife joined in the Government service, Ex.P1 in the divorce case could have been printed through a printing press only for the

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purpose of filing the case, in which Mugoortha time was wrongly given. Though it amounts to creation of false record or document to get benefit from the Court order, but, she did not disclose this fact before the Court, wherein the divorce petition was filed on 21.10.2016, and prior to filing the case before the Court. Ex.P1 could have been printed out side of the Court. Even the wife is the Government servant, when the divorce petition was filed and coming to the Court with a false particulars that her marriage time was given, i.e. between 06.00 am and 07.30 am is not correct so.

20. As per Ex.R1 in that case, wherein, both sides invitation reveals that marriage time was between 09.00 am and 10.30 am. To that aspect, the wife did not come to the Court in clean hands, where she come up with the invitation in Ex.P1 that her marriage Mugoortham time was between 06.00 am and 07.30 am is not correct fact. Therefore, this Court is of the firm view that the case facts spoken by the wife cannot be simply considered without exercising a great degree of caution. There is a Tamil saying "**முதல் கோணல் முழுவதும் கோணல்**"- which means if the beginning is crooked, the entire thing will be crooked.

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21. The learned counsel for the husband contended that the wife's side family was the poor family and during the marriage, no Sreedhana or jewels given to the wife. Having the wife side family is poor family and the husband is working as Television Mechanic at Tiruppur and visits the matrimonial home once in a week or often with a great earning, and he spent lot of money for her wife for B.C.A degree completion and thereafter coaching centre expenses to get a Government job, apart from the expenses to the domestic life. When the wife joined Government job, her character and attitude changed and when it was advised by the husband on the wife, she did not care about and filed the case for divorce and simultaneously the husband also filed a petition for restitution of conjugal rights before the Family Court at Karur, in H.M.O.P.No.217 of 2018. He further submitted that though both cases were transferred to the Principal District Court, Trichy, the trial Court appreciated the facts in a proper perspective and dismissed the divorce petition filed by the wife and allowed the restitution of conjugal rights petition filed by the husband, by taking note of the change of attitude, after getting the degree and Government job from the hard earned money of

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husband and for the welfare of the two children, which orders are correct and both the appeals are liable to be dismissed.

22. The learned counsel for the wife submitted that though the wife family was below middle class family, but, she joined the degree course before the marriage and completed the same after the marriage with the help of her parents. Thereafter, she joined the Government job for the welfare of the two children. Though the wife availed Government job with great efforts and the husband, who is the Television mechanic at Tiruppur, where the matrimonial home at Karur, the husband did not care about the family or the future of the children and failed to meet the domestic expenses. The husband was suspicious over the wife after joining her Government service and it is the natural duty of the Government servant to attend the meeting with public and higher official etc. When the Government servant by nature of her job, she had to interact with others, including male members.

23. He further submitted that such interactions cannot be viewed as a change in the character of the wife, whereas the husband suspected her conduct and subjected her to mental cruelty. Therefore, the wife filed divorce petition and the trial Court failed to

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appreciate in a proper way and dismissed the divorce petition is correct so and the appeal is to be allowed. As far as the restitution of conjugal rights filed by the husband was allowed, which is not correct so. Therefore, the said order is liable to be *set aside* and thereby, the appeals filed by the wife are allowed.

24. The wife in her P.W.1 evidence in H.M.O.P.No.340 of 2021 narrated the facts found in the divorce petition and through her Ex.P1 to Ex.P4 were marked. As the marriage is not disputed by both sides, there is no requirement to go into details of the exhibits, except Ex.P1 and Ex.R1 in H.M.O.P.No.340 of 2021 and the same was referred and discussed in the previous paragraph of the judgment. The crux of the facts as P.W.1 that after her marriage, she joined B.C.A degree through distance education and at that time she lived with the husband. To that aspect and her admission the facts in the petition that prior to her marriage she completed B.C.A degree is false as total lies and deceit.

25. She admitted that at the time of her marriage, her parent was not in a rich condition. When a question was posed on her that after availing Government job, the husband told her to get a Government job to Tiruppur, which she refused to and saying that

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she will continue at Manapparai, thereby, the wife filed the divorce petition, which is denied by the wife. The father of the wife has two wives and the P.W.1 is his second wife's daughter. Though the wife alleged that the husband did not take car of her, no complaint or lawyer notice sent by her is admitted. After demise of the wife's mother, she has been living with her father's house is admitted.

26. About the expenses met out to get a degree of B.C.A, she stated that her father met out the expenses, wherein, her father was doing cotton business and also cattle business and those facts are not mentioned in the petition. When a specific question was posed by the husband's side on P.W.1 from 2009 to 2014, when the wife was studying in the coaching centre at Namakkal Rajiv Gandhi coaching centre, the expenses met out by the husband was simply denied. Even before filing the divorce petition, the husband sent a notice dated 24.10.2016 asking the wife to come and live with him in Ex.R3 is admitted by P.W.1. But no reply sent by the wife.

27. Having the wife staying at her parental home along with two children, the husband has approached the police station for visitation right and as per the instructions of the police, the husband visits his children is not denied by the wife. P.W.1's father died

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recently, when she was examined before the trial Court on 01.09.2021, thereby, the husband's side posed a query that for the welfare of the children and also the safety of the wife, all would be living together in safe environment, even then the wife denied the same. The other suggestions with regard to the jewels given to the marriage by either side and other aspected denied by the wife.

28. The husband given evidence before the trial Court in the divorce case as R.W.1. He narrated the facts mentioned in the counter to the divorce petition and through him Ex.R1 to Ex.R4 were marked. As discussed above, Ex.R1 is a common both sides invitation for the wedding. The other documents are Aadhar card, lawyer's notice and *exparte* decree passed in H.M.O.P.No.217 of 2018, which is a restitution of conjugal rights petition order. The cross examination of R.W.1 in the divorce case reveals that after the marriage, the parties to the case started the matrimonial life at Pudhu Kanjamanur, Uppidmangalam, Karur. Then they shifted to Tiruppur for some time. When the family was at Pudhu Kanjamanur, Uppidmangalam, Karur, the husband visits his family once in a week, who is working as television mechanic at Tirppur. The wife side posed a question that the husband did not pay any amount for

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the children's education was denied and stated that upto 2017, he paid amounts for the children's welfare. On the date of Ex.R3 – legal notice sent by the husband, the wife filed divorce petition, thereby, no reply was sent in Ex.R3, which is denied by the husband. The other suggestions and questioned denied by the husband.

29. The husband case for restitution of conjugal rights in H.M.O.P.810 of 2021 on the husband side two witnesses as P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P6 were examined. For the wife side, one witness as R.W.1 was examined and no document was marked.

30. In that case, the husband had given evidence as P.W.1 and one Gopal @ Ramasamy has given evidence as P.W.2. The facts narrated in the restitution of conjugal rights petition has been mentioned in the chief examination of P.W.1 therein. The cross examination of P.W.1 in that case found more or less the evidence placed in the divorce case. Further cross of P.W.1 reveals that the wife had given complaint at Manapparai All Women Police Station, but no complaint given by husband against the wife establishes that the husband always ready to live with the wife for the welfare of the family. Further, the cross-examination of P.W.1 reveals that, after

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the marriage, there were disputes in his family between his mother and his wife, resulting in friction between the mother-in-law and daughter-in-law The other questions and suggestions have been denied.

31. P.W.2-Mr.Gopal @ Ramasamy knew about both sides and stated that the father of the wife has two wives and the petitioner / wife is the daughter of his second wife. Her father name is L.Ramasamy, who was the cousin brother to P.W.2. The wife's father and mother were cooli. He has spoken about the initial family life of the parties and stated that the wife after marriage studied well, without going for any employment, in which the husband met out the expenses, thereafter, the wife got Government job in 2014. Since the father of the wife was aged person and 72 years old, he could not attend any work, therefore, there was no income in the wife's side family. He has spoken that the husband only met out the expenditure of the education of the wife to complete her B.C.A degree and also coaching centre expenses to get a Government job. On perusal of cross examination of P.W.2, nothing whisper in favour of the wife.

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32. The wife has given evidence as R.W.1 in the restitution of conjugal rights petition. She narrated the facts found in that case. On perusal of her cross examination of R.W.1 reveals that at the time of her marriage, she completed +2, she got marriage with the husband in 2005, she delivered second child in 2008. Her mother died on 01.05.2008, her father died at the age of 75. After the marriage, she studied B.C.A degree from 2010-2012. When she was doing B.C.A, she was not employed for wages, then she studied at the coaching centre in 2013-2014 at Namakkal Rajaji Institute, then, she joined in V.A.O post in 2015.

33. When a specific question was posed stating that her mother died in 2008 and father is aged about 75 years old and the expenses for B.C.A degree and the coaching centre for competitive examination was met out by the husband was simply denied by her. Further evidence reveals that she was non employed after the marriage till the V.A.O post is availed. Therefore, one cannot falsify the established facts that the parties got married in 2005 and were blessed with two children within three years of their marriage, where the husband is working as television mechanic, in which the wife did not work till the V.A.O post availed in 2015, how the wife could

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spend money for completing B.C.A degree followed that coaching centre expenses. There is no proper explanation from the wife and simply denied the husband's case, wherein the husband spent lot of money for the wife and also the welfare of the family.

34. It is a common phenomenon that, whenever a woman intends to pursue higher studies, her father or brother, and after her marriage, her husband and in-laws, are generally willing to support and encourage her to pursue higher education and secure a better position in Government service. Though the husband was working as a television mechanic in the present case and could not pursue his higher studies, it is proved that, at the time of marriage, the wife was not employed. After the marriage till she gets V.A.O post. She could not be employed. She lead a marital life and blessed with two children between 2005 and 2008 and thereafter, they have to take care of the family’s day to day domestic work, the wife intended to study, for which, the husband should have been spent money for B.C.A and followed that private coaching centre for the Government employment.

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35. Thereby, the contention of the wife that she studied in the income given by her father is ruled out, wherein her mother died on 01.05.2008 and her father died at the age of 75 years coupled with from two sides evidence, the parents of the wife were coolies before her marriage, wherein the wife studied B.C.A and have secured degree after her marriage and got employment as V.A.O from the money spent by the husband and thereafter, the wife neglected the family and left the matrimonial home to her parent home, this was the root cause of the divorce petition, and ultimately, the Court accepted the husband's case and dismissed the wife's petition for divorce.

36. Though the learned counsel for the wife contended that the wife has Government post, the husband harassed the wife is not correct, and proved when the husband incurred all the expenses to the wife, how the husband could have been harassed the wife, when the wife is earning well. The facts proved that once she neglected the husband, and the children are in the custody of the wife, the attitude and conduct of the wife have been changed. Therefore, looking into all the facts and circumstances of the case, this Court is of the firm

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view that the wife has not sustained any cruelty from the hands of the husband, wherein the husband only sustained a lot of cruelty from the wife by spending money for her education, employment and coaching aspect and thereafter, she neglected the family cannot be accepted. Therefore, the dismissal of the divorce petition is correct and allowing the restitution of conjugal rights petition is also perfect. Therefore, both the appeals are liable to be dismissed where there is no requirement to interfere with the decisions of the trial Court. Point Nos. I to III are answered as against the wife.

Point No.IV:

37. Since both the appeals are dismissed, both the parties shall bear their own costs.

38. In the result:

(i) C.M.A.(MD)No.681 of 2022 is dismissed;

(ii) The dismissal order of the divorce petition in H.M.O.P.No.340 of 2024 dated 30.04.2022 passed by the Principal District Court, Trichy, is confirmed;

(iii) C.M.A.(MD)No.738 of 2022 is dismissed;

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(iv) The restitution of conjugal rights order petition in H.M.O.P.No.81 of 2021 dated 30.04.2022 passed by the Principal District Court, Trichy, is confirmed; and

(v) Both the parties shall bear their own costs.

17.11.2026

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
LS

To

The Principal District Court,
Tiruchirappalli.

Copy To :

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

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DR. P. MURUGAN J.
LS

Pre- delivery Judgments made in CMA(MD) Nos. 681 and 738 of 2022

17.11.2026

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