

Suriseti Venkataramana and Another

Bench : Division Bench

O.S. No. 9 of 1934 was allowed and the decree for maintenance in favour of the wife was set aside. The memorandum of-cross-objections filed

by the wife regarding the rate of maintenance was also dismissed by the learned District Judge.

2. Mr. Ramachandra Rao for the wife has laid strong emphasis upon the unsatisfactory result of the decision pronounced by the learned District

Judge. He contends that the learned District Judge having found in agreement with the learned Subordinate Judge that the husband was not entitled

to a decree for restitution of conjugal rights ought thereupon to have confirmed the decree in favour of the wife for separate maintenance. This

contention appears to me to be correct. It is not, as has been frequently stated, necessary that the wife should prove actual cruelty in order to

entitle her to a decree for separate maintenance. On the other hand, it is logical that if the husband is found to be not entitled to a decree for

restitution of conjugal rights, the wife should be held entitled to a decree for a separate maintenance - see the case of Raja K.J. Venkatapathi

Nayani Varu, Raja of Kangundi Vs. Rani Puttamma Nagith, . It seems to me therefore that the appeal of the wife S.A. No. 149, must be allowed

and the decree of the Subordinate Judge in her favour restored. The District Judge found that the rate of maintenance Rs. 10 a month, awarded by

the learned Subordinate Judge was suitable and I have not been asked to say that the learned District Judge was wrong in that respect.

3. The appeal of the husband must, on the facts found, be dismissed. It is found that he did abandon his wife and that he did not genuinely want her

back.

4. The appellant in S.A. No. 149 will be entitled to her costs from the respondents in this Court and in the lower Appellate Court. S.A. No. 185 is

dismissed but without costs.

5. Leave to appeal is refused.