

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2015

CORAM;

THE HONOURABLE Mr.JUSTICE K.K.SASIDHARAN

C.R.P.(PD). No.2131 of 2015
and M.P.Nos.1 to 3 of 2015

Ashwant Akula Venkatram

..Petitioner

Vs

Divya Rayapati

..Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India seeking for a direction to dispose of Interlocutory applications in I.A.Sr.Nos.1943 and 1944 of 2015 in O.P.No.4028 of 2013 on the file of I Additional Family Court, Chennai.

For Petitioner : Mrs. Chitra Sampath
Senior Counsel
for Mr.M.A. Gouthaman

For Respondents : Mr.K. Doraisami
Senior Counsel
for Mrs. Sudharsana Sundar

ORDER

The delay on the part of the First Additional Family Court at Chennai to number the applications filed by the petitioner to set aside the ex parte

decree and the related condone delay petition, made the respondent in H.M.O.P.No.4028 of 2013 to file this Civil Revision Petition invoking Article 227 of the Constitution of India.

The facts:

2. The petitioner is the husband of the respondent. The marriage was solemnized on 25 November 2012. The respondent filed H.M.O.P.No.4028 of 2013 before the Family Court, Chennai praying for a decree of declaration that the marriage is null and void. The respondent made a claim for payment of a sum of Rs.30 Crores towards permanent alimony.

3. Since the petitioner failed to contest the matter, the original petition was allowed by order dated 17 December 2014. The learned First Additional Judge dissolved the marriage by a decree of divorce. The petitioner was directed to pay a sum of Rs.10 Crores towards permanent alimony. The petitioner thereafter filed I.A.Sr.Nos.1943 of 2015 to condone the delay of 34 days in filing the application to set aside the ex parte order. Similarly, he filed I.A.Sr.No.1944 of 2015 to set aside the ex parte order. The applications were not taken up for consideration by the trial Court and the same resulted in filing this Civil Revision Petition.

4.This Court earlier passed an order on 4 June 2015 injuncting the respondent from re-marrying during the currency of the application to set aside the ex parte order.

Submissions:

5. The learned Senior Counsel for the petitioner contended that the learned trial Judge without considering the background facts and the maintainability of the petition for declaration, passed an order dissolving the marriage besides directing the petitioner to pay substantial amount of Rs.10 Crores towards permanent alimony. According to the learned Senior Counsel, the petitioner is settled at California in connection with his employment. The petitioner filed an application to set aside the ex parte order immediately on receipt of information. The trial Court without numbering the applications is making attempt to execute the order in O.P.No.4028 of 2013. The learned Senior Counsel therefore wanted this Court to direct the trial Court to number the applications and to maintain status quo in the meantime.

6. The learned Senior Counsel for the respondent contended that sufficient opportunity was given to the petitioner to contest the proceedings in O.P.No.4028 of 2013. He was sitting on the fence. The petitioner

watched the proceedings from outside deliberately and abstained from attending the Family Court. The trial Court was therefore perfectly correct in passing the ex parte order of divorce and permanent alimony. The learned Senior Counsel contended that no direction could be issued to the trial Court to number the applications in view of the fact that the petitioner failed to take steps to register the applications in spite of filing the Civil Revision Petition as early as on 4 June 2015.

Analysis and conclusion:

7. The petitioner seeks a direction to the First Additional Family Court, Chennai to dispose of the interlocutory applications in I.A.Sr.Nos.1943 and 1944 of 2015 on merits. The applications are pending on the file of the trial Court. The respondent after obtaining an ex parte order directing the petitioner to pay a sum of Rs.10 Crores towards permanent alimony filed Execution Petition to recover the money. The petitioner is therefore correct in his submission that his applications for setting aside the ex parte order and the related condone delay petition should be heard at the first instance.

8. There is no need to consider the relative merits of the case

pleaded by the parties in view of the limited relief prayed for by the petitioner.

9. The First Additional Family Court, Chennai is directed to number the applications filed by the petitioner in I.A.Sr.Nos.1943 and 1944 of 2015 in H.M.O.P.No.4028 of 2013, if the same is otherwise in order and without insisting personal appearance of the petitioner or power agent. Such exercise shall be completed within a period of two days from the date of receipt or production of a copy of this order.

10. The Civil Revision Petition is allowed to the extent indicated above. Consequently, the connected MPs are closed. No costs.

25.09.2015

Index:Yes/No

Note:- Issue on 25.9.2015

Tr/

To

I Additional Family Court
Chennai.

K.K.SASIDHARAN, J

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