

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.2144 of 2015
and M.P.No.1 of 2015

D.Kumar

... Petitioner

Vs.

M.Krithika

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 13.02.2015 made in I.A.No.554 of 2014 in H.M.O.P.No.38 of 2014 on the file of the Family Court, Erode.

For Petitioner : Mr.D.Lakshmi pathy

ORDER

Challenging the fair and decreetal order passed in I.A.No.554 of 2014 in H.M.O.P.No.38 of 2014 (originally H.M.O.P.No.300 of 2011 on the file of the I Additional Subordinate Court, Erode) on the file of the Family Court, Erode, the petitioner, who is the husband of the respondent has filed the above Civil Revision Petition.

2.The respondent/wife filed the Original Petition in H.M.O.P.No.38 of 2014 for divorce on the ground of cruelty. The petitioner filed an application in I.A.No.554 of 2014 in H.M.O.P.No.38 of 2014 to stay the Original Petition till the disposal of the criminal cases in C.C.No.187 of 2011 on the file Judicial Magistrate No.1, Erode and M.C.No.14 of 202 on the file of the Judicial Magistrate, Kodumudi.

3.On a perusal of the materials available on record, it could be seen that the petitioner also filed a transfer petition in Tr.O.P.No.101 of 2014 before the Principal District Court, Erode, for transferring the Maintenance Case in M.C.No.6 of 2011 to be tried along with the Original Petition in H.M.O.P.No.38 of 2014. However, the Principal District Judge dismissed the petition as not pressed on 07.01.2015. The apprehension of the petitioner is that if the parties are cross examined in the Original Petition, it would affect the results in the criminal cases. The Family Court rightly dismissed the application finding that on the mere apprehension of a party, the Original Petition cannot be stayed. That apart, the proof affidavit was filed in the Original Petition on 05.08.2013 and the matter was adjourned to various dates for mediation. Since the matter was not settled, the matter was posted for cross examination on 20.03.2014. Thereafter, the present application was filed by the petitioner to stay the proceedings. The petition

filed by the petitioner would clearly establish that it is only for delaying the proceedings. The Family Court, taking into consideration all these aspects, rightly dismissed the application.

4. In these circumstances, I do not find any error or irregularity in the order passed by the Family Court. The Civil Revision Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

17.06.2015

To

The Family Court,
Erode.

M.DURAIWAMY,J.
va

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