

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2015

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THE HONOURABLE MR.**JUSTICE D.HARIPARANTHAMAN**

**CRP No.3815 of 2015
and M.P.Nos.1 and 2 of 2015**

Peter Sukumar Prakash

... Petitioner

VS.

Anna Shobna Pramila

... Respondent

Civil Revision Petition has been filed to strike off the proceedings in EP No.41 of 2013 on the file of the learned Principal Judge, Family Court, Chennai initiated by the respondent to execute the exparte decree dated 29.12.2012 made in OP.No.624 of 2012 by the Principal Judge, Family Court at Chennai.

For petitioner : Mr.L.Joseph for M/s.K.Subhashini

For Respondent : M/s.Shaikh Mehrunisa

ORDER

On representation from the learned counsel for the petitioner/husband, the above Civil Revision Petition is listed today under the caption "for being mentioned".

2.It is submitted by the learned counsel for the petitioner/husband that pursuant to the order dated 28.09.2015 made in MP.No.2 of 2015 in CRP (NPD) No.3815/2015, the demand draft for a sum of Rs.25,000/- was revalidated. However, the office of the learned Principal Judge, Family Court, Chennai refused to accept the same on the ground that only the petitioner / husband can deposit the

amount. Therefore, the learned counsel seeks a direction to the office of the learned Principal Judge, Family Court, Chennai to accept the revalidated demand draft for Rs.25,000/-, when the same is deposited by the learned counsel for the petitioner/ husband. The learned counsel also states that the petitioner / husband is willing to deposit the demand draft even tomorrow i.e., on 28.10.2015.

3.In view of the aforesaid submission, the order dated 28.09.2015 made in MP.No.2/2015 in CRP (NPD) No.3815/2015 is modified as follows:

"The counsel for the petitioner is permitted to deposit the demand draft dated 09.02.2015 on revalidation for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the credit of OP.No.624 of 2012 on the file of the learned Principal Judge, Family Court, Chennai on or before 30.10.2015. On such deposit being made, the respondent / wife is permitted to withdraw the same.

The petition is ordered accordingly"

4.Besides modifying the order made in MP.No.2/2015 in CRP (NPD) No.3815/2015, this Court is inclined to dispose of the Civil Revision Petition, after hearing both sides.

5.The respondent / wife filed OP.No.624/2012 before the Family

Court at Chennai, for dissolution of marriage that took place on 17.06.1996 with the petitioner / husband. She also sought for a direction to the petitioner / husband to pay a sum of Rs.2 crores towards permanent alimony for herself as well as for minor daughter.

6. There are three children born out of wedlock and two children are with the petitioner / husband and one minor daughter is with the respondent / wife.

7. While so, ex parte order was passed in OP.No.624 of 2012 on 29.12.2012 granting divorce as well as permanent alimony as sought for by the respondent / wife. Thereafter, the respondent/wife filed E.P.No.41 of 2013 against the petitioner / husband.

8. In the mean time, the petitioner / husband filed IA.No.3159/2013 in OP.No.624/2012 to condone the delay of 301 days in filing the application to set aside the ex parte decree made in OP.624/2012. However, the Principal Family Court, Chennai dismissed IA.No.3159/2013 in OP.624/2012 by order dated 09.10.2014.

9. In these circumstances, the petitioner / husband filed CRP No.138 of 2015 to set aside the order dated 09.10.2014 made in IA.No.3159 of 2013 in OP.624 of 2012. After hearing both sides, this Court allowed CRP No.138 of 2015 and the delay in filing the

application to set aside the exparte decree made in OP.No.624 of 2012 was condoned subject to the condition that the petitioner / husband shall pay cost of Rs.25,000/- to the respondent / wife within a period of two weeks from the date of receipt of the copy of the order.

10.According to the revision petitioner, the cost of Rs.25,000/- by way of demand draft bearing No.023476 dated 09.02.2015 drawn on Bank of Baroda, EC Street Branch, Chennai-1 along with covering letter dated 20.02.2015 was sent to the respondent / wife through speed post and the same was delivered to the respondent / wife on 23.02.2015. The copy of the covering letter dated 20.02.2015 addressed to the respondent /wife and the demand draft for Rs.25,000/- dated 09.02.2015 are enclosed at pages 100 and 101 of the typed set filed along with the present Civil Revision Petition. The learned counsel for the revision petitioner also brought to my notice at pages 102 and 103 of the same typed set about the proof for delivery of the same. Hence, according to the revision petitioner, the order of this Court made in CRP.No.138/2015 was complied with.

11.It is further submitted by the learned counsel for the revision petitioner that though the amount was offered, the respondent /wife refused to receive the same. The same is disputed by the respondent / wife. However, I am not inclined to go into the controversy about

payment of cost.

12.Taking into account the aforesaid facts, this Court admitted the present Civil Revision Petition on 28.09.2015 and passed the following orders in MP.No.1 of 2015 and MP.No.2 of 2015, which read as follows:

MP.No.1/2015 in CRP (NPD) No.3815/2015

"In view of the order of this court dated 27.01.2015 in CRP (NPD) No.138 of 2015 and in view of the attempt made by the petitioner to comply with the order by sending the demand draft for a sum of Rs.25,000/- on 20.02.2015 in compliance of the order of this court, there shall be an order of interim stay. Notice."

MP.No.2 of 2015 in CRP (NPD) No.3815 of 2015

"The petitioner is permitted to deposit the demand draft dated 09.02.2015 on revalidation for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the credit of OP.No.624 of 2012 on the file of learned Principal Judge, Family Court, Chennai.

The petition is ordered accordingly"

13.Now, the order passed in MP.No.2 of 2015 in CRP (NPD) No.3815 of 2015 is modified as stated in para 3 of this order.

14.After hearing both sides, I am inclined to dispose of this Civil Revision Petition, by directing the Executing Court not to proceed with

the execution proceedings in EP.No.41 of 2013 till the disposal of OP.624/2012 by the Principal Family Court, Chennai. Further direction is issued to the Principal Family Court, Chennai to dispose of OP.No.624/2012 on merits and in accordance with law within a period of six months. The revision petitioner / husband is also directed not to get unnecessary adjournments.

15.At this juncture, the learned counsel for the respondent / wife submitted that the revision petitioner has already obtained divorce in the Court of United States of America and hence, he may not oppose the divorce being granted by the Family Court, Chennai. Further, it is submitted that the only issue that has to be considered herein is permanent alimony and the alimony as sought for by the respondent / wife is not big amount, when compared to the status of the revision petitioner / husband. However, I am not inclined to go into that issue and I am inclined to leave it open to the Principal Family Court, Chennai for its consideration.

16.The Civil Revision Petition is disposed of, in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

27.10.2015

Index:Yes
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To

1.The Principal Judge, Family Court, Chennai.

**NOTE TO OFFICE:
ISSUE ORDER COPY ON 29.10.2015**

D.HARIPARANTHAMAN, J.

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C.R.P. (NPD) No.3815 of 2015

27.10.2015