

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.4560 of 2015 &
M.P.No.1 of 2015

P.Kishore Kumar

... Petitioner

v.

P.Uma

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 15.10.2015 passed in I.A.No.185 of 2015 in H.M.O.P.No.149 of 2012 on the file of Subordinate Judge at Poonamallee.

For Petitioner : Mr.S.Madhusudanan

ORDER

Challenging the fair and final order passed in I.A.No.185 of 2015 in H.M.O.P.No.149 of 2012 on the file of Subordinate Court, Poonamallee, the petitioner, who is the husband of the respondent, has filed the above Civil Revision Petition.

2. The petitioner filed the Original Petition in H.M.O.P.No.149 of 2012 for divorce on the ground of cruelty. Subsequently, when the Original Petition is taken up for trial, since the respondent-wife failed to appear before the Trial Court, an exparte decree was passed on 03.06.2014. Thereafter, the respondent-wife filed an application in I.A.No.272 of 2014 to set aside the exparte decree. The Trial Court, allowed the application on payment of cost of Rs.1,000/-.

3. As against the order passed in I.A.No.272 of 2014, the petitioner herein preferred a Civil Revision Petition in C.R.P.(PD) No.1457 of 2015 and this court, by order dated 20.04.2015, while dismissing the Civil Revision Petition, directed the Trial Court to dispose of the Original Petition in H.M.O.P.No.149 of 2012 on merits and in accordance with law, within a period of three months from the date of receipt of a copy of that order. Subsequently, when the matter was taken up for trial and when the matter was posted for cross examination of P.W.1, again the respondent remained absent, therefore, the Trial Court set her exparte. Thereafter, the respondent filed an application in I.A.No.185 of 2015 to set aside the exparte order dated 17.08.2015. In the affidavit filed in support of the application, the respondent has stated that due to ill-health she could not appear on 27.08.2015. The application filed by the respondent was opposed by the petitioner stating that in spite of the direction given by this court to

dispose of the Original Petition within three months, the respondent is dragging on the matter. The Trial Court, again allowed the application and set aside the exparte order dated 27.08.2015 on payment of cost of R.1,000/-.

4. I am of the view that, in the interest of justice, the respondent could be given an opportunity to contest the matter on merits.

5. In these circumstances, without interfering with the order passed by the Trial Court, I direct the Subordinate Judge, Poonamallee, to dispose of the Original Petition in H.M.O.P.No.149 of 2012 on merits and in accordance with law, within a period of two months, from the date of receipt of a copy of this order.

With this observation, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

10.12.2015

Rj

To

The Subordinate Judge,
Poonamallee

M. DURAISWAMY,J.,

Rj

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