

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 7.04.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)Nos.926 and 927 of 2015
and M.P.Nos.1 of 2015 (2 in Nos.)

Jayalakshmi petitioner in both the revision petitions

vs

Dr Sridhar Respondent in both the revision petitions

Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decreetal order dated 13.1.2015 in I.A.Nos. 129 and 128 of 2014 in H.M.O.P.No.115 of 2011 on the file of Subordinate Court, Ponneri.

For Petitioner : Mr.R. Loganathan

For Respondents : Mr.L.J. Krishnamurthy

COMMON O R D E R

C.R.P.No.926 of 2015 arises against the fair and decreetal order dated 13.1.2015 on in I.A.No.129 of 2014 in H.M.O.P.No/115 of 2011 on the

file of Subordinate Court, Ponneri.

C.R.P.No.927 of 2015 arises against the fair and decreetal order dated 13.1.2015 on in I.A.No.128 of 2014 in H.M.O.P.No/115 of 2011 on the file of Subordinate Court, Ponneri.

2. The petitioner is the wife of the respondent. The respondent/husband filed a petition in H.M.O.P.No.115 of 2011 for divorce on the ground of cruelty.

3. At the outset itself, the learned counsel appearing for the respondent submitted that so far the petitioner has filed 8 (eight) civil revision petitions before this Court. When the petitioner filed a Civil Revision Petition in CRP (PD) No.4047 of 2012, I had the occasion to dispose of the above civil revision petition, by order dated 26.7.2013, and direct the Subordinate Court, Ponneri to dispose of the original petition in H.M.O.P.No.115 of 2011, on merits and in accordance with law, within a period of three months. But, even after a lapse of nearly two years, the trial court has not disposed of the original petition.

4. Similarly, in C.R.P(PD)No.485 of 2014, this Court, by Order dated 18.3.2014, directed the trial court to dispose of the petition within

two months. In spite of the two directions given by this court, the learned Subordinate Judge, Ponneri has not disposed of the petition so far.

5. The petitioner/wife has filed a petition in I.A.No.128 of 2014 under Order 16 Rule 1 of Civil Procedure Code to issue summons to some doctors, who had issued certificates in her favour. The documents were marked as Exs.R.16 to R.25, subject to the objections by the other side.

6. The respondent/husband objected to marking of the documents through the petitioner for the reason that the author of the documents were not examined and that the documents can be marked only through the author of the same. Therefore, the trial court marked those documents as Exs.R.16 to R.25, subject to the objection raised by the respondent/husband. Thereafter, in the application in I.A.No.128 of 2014 , the petitioner sought to examine six doctors to prove Exs.R.16 to R.25.

7. The trial court allowed the application in part, by permitting the petitioner/wife to issue summons to Dr.Sameer (Medi Scan System), Dr.Claria (Joseph Nursing Home, Chennai-31) and Dr.S. Rekha (Gunasekaran Hospitals, T. Nagar, Chennai-17).

8. So far as the other three doctors are concerned, viz.,

Dr.S.P. Ganesan, Dr.Mahalakshmi and Dr.M.A. Lakshmi, the trial court dismissed the application, finding that the certificates issued by them are computer generated documents and there is no necessity for examining the said doctors.

9. When the matter is taken up today for hearing, the learned counsel appearing for the respondent/husband fairly submitted that the petitioner/wife may be permitted to examine the other doctors also, however, the trial court may be directed to dispose of the matter within a time frame, fixed by this Court.

10. The petitioner/wife has filed an application in I.A.No.129 of 2014 under Order 6 Rule 14 r/w 16 and 17 of Civil Procedure Code to dismiss the Original Petition in H.M.O.P.No.115 of 2011 for the reason that the respondent/husband has not signed the pleadings.

11. On a perusal of the Original petition, filed in the typed set of papers by the learned counsel for the petitioner, at page No.5,

respondent/husband has signed in one place and his counsel has signed in two places. Therefore, the petitioner/wife cannot now take a stand that the respondent/husband has not signed the pleadings at all.

12. This Court, while dismissing the civil revision petitions on 13.8.2014 in C.R.P.Nos.3036 to 3039 of 2014, also dealt with this aspect at paragraph-9 of the order. This Court also took into consideration the oral evidence let in by P.W.1, who has not disowned the averments stated in the original petition.

13. In any event, the defect, now pointed out by the petitioner/wife, is only a curable one, which can be rectified by the respondent/husband, by affixing his signature in the original petition. The learned counsel for the respondent/husband also submitted that the respondent/husband is prepared to sign in the original petition before the trial Court.

14. In these circumstances, having regard to the submissions made by the learned counsel on either side, the fair and decreetal order passed in I.A.No.128/2014 in H.M.O.P.No.115 of 2011 is modified and the application in I.A.No.128 of 2014 stands allowed in toto and the civil revision petition in C.R.P.(PD)No.927 of 2015 is allowed.

15. The learned counsel on either side submitted that the trial court has posted the matter on 13.4.2015 for hearing. The respondent/husband shall sign the pleadings before the trial court in the presence of the learned

Subordinate Judge, Ponneri on 13.4.2015.

16. In these circumstances, the petition in

(a) C.R.P.(PD)No.927 of 2015 stands allowed.

(b) C.R.P.(PD)No.926 of 2015 is disposed of with the above observation.

© As pointed out earlier, the trial court is once again directed to dispose of the suit without any further delay on or before 31.7.2015 and report the same to the Registry of this court immediately thereafter.

No costs. Consequently, connected MPs are closed.

7.04.2015

sr

Index : No

Internet : yes

Note: Registry is directed to call for a report from the Subordinate Judge, Ponneri for the delay in disposing of the matter inspite of the two directions given by this court in CRP (PD) No.4047 of 2012 dated 26.7.2013 and Cr.P.P.(PD) No.485 of 2014 forthwith.

M. DURAISWAMY,J.,

sr

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