



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 16.02.2015

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CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P(MD)No.260 of 2015

A.Pannerselvam ... Petitioner/Petitioner

Vs.

K.Preethi ... Respondent/Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to direct the learned III-Additional Sub Judge, Karur to dispose of H.M.O.P.No.102 of 2014 on merits and in accordance with law within a time frame as stipulated by this Court.

For Petitioner : Mr.A.Esakkiappan

ORDER

This Civil Revision Petition is filed for a direction seeking early disposal of H.M.O.P.No.102 of 2014 on the file of the III-Additional Sub Judge, Karur.

2. Heard the learned counsel appearing for the petitioner.

3. The petitioner, who is the husband in a matrimonial dispute, has filed the above Civil Revision Petition seeking a direction for speedy disposal of H.M.O.P.No.102 of 2014.

4. H.M.O.P.No.102 of 2014 is filed on 23.04.2014 for divorce under Section 13(1)(i-a) of the Hindu Marriage Act, 1955. Notice has been served on the respondent and the respondent had taken time for filing counter. While so, the case was made over to the III-Additional Sub Judge, Karur and when the matter was called by the III-Additional Sub Judge, Karur on 21.11.2014, the matter was adjourned to 09.12.2014 for filing counter of the respondent. After several adjournments, the respondent has filed counter on 12.01.2015 and the matter was posted for enquiry on 21.01.2015. At this stage, the revision petition is filed seeking for a direction for speedy disposal of H.M.O.P.No.102 of 2014 under Article 227 of the Constitution of India. It will be



useful to know the power of High Court in exercising Article 227 of the Constitution of India which is discussed elaborately in **Shalini Shyam Shetty and another Vs. Rajendra Shankar Patil** reported in 2010 (8) SCC 329, which is as follows:-

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“48. Jurisdiction under Article 226 normally is exercised where a party is affected but power under Article 227 can be exercised by the High Court suo motu as a custodian of justice. In fact, the power under Article 226 is exercised in favour of persons or citizens for vindication of their fundamental rights or other statutory rights. The jurisdiction under Article 227 is exercised by the High Court for vindication of its position as the highest judicial authority in the State. In certain cases where there is infringement of fundamental right, the relief under Article 226 of the Constitution can be claimed *ex debito justitiae* or as a matter of right. But in cases where the High Court exercises its jurisdiction under Article 227, such exercise is entirely discretionary and no person can claim it as a matter of right. From an order of a Single Judge passed under Article 226, a letters patent appeal or an intra-Court Appeal is maintainable. But no such appeal is maintainable from an order passed by a Single Judge of a High Court in exercise of power under Article 227. In almost all the High Courts, rules have been framed for regulating the exercise of jurisdiction under Article 226. No such rule appears to have been framed for exercise of High Court's power under Article 227 possibly to keep such exercise entirely in the domain of the discretion of High Court.

49. On an analysis of the aforesaid decisions of this Court, the following principles on the exercise of High Court's jurisdiction under Article 227 of the Constitution may be formulated:

(a) A petition under Article 226 of the Constitution is different from a petition under Article 227. The mode of exercise of power by High Court under these two Articles is also different.



(c) High Courts cannot, on the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or Courts inferior to it. Nor can it, in exercise of this power, act as a Court of appeal over the orders of Court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court.

(d)

(e) According to the ratio in Waryam Singh vs. Amarnath reported in AIR 1954 SC 215, followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and Courts subordinate to it, "within the bounds of their authority".

(f) In order to ensure that law is followed by such tribunals and Courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and Courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

(h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or Courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly



exercised.

(i)

(j)

(k) *The power is discretionary and has to be exercised on equitable principle. In an appropriate case, the power can be exercised suo motu.*

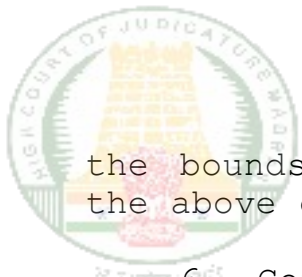
(l) *On a proper appreciation of the wide and unfettered power of the High Court under Article 227, it transpires that the main object of this Article is to keep strict administrative and judicial control by the High Court on the administration of justice within its territory.*

(m)

(n) *This reserve and exceptional power of judicial intervention is not to be exercised just for grant of relief in individual cases but should be directed for promotion of public confidence in the administration of justice in the larger public interest whereas Article 226 is meant for protection of individual grievance. Therefore, the power under Article 227 may be unfettered but its exercise is subject to high degree of judicial discipline pointed out above.*

(o) *An improper and a frequent exercise of this power will be counterproductive and will divest this extraordinary power of its strength and vitality."*

5. The said decision is also followed subsequently in **Sameer Suresh Gupta Vs. Rahul Kumar Agarwal** reported in **2013 (9) SCC 374** considering the limitations of High Court's jurisdiction under Article 227 of the Constitution of India. The parameters for exercise of power by High Court under Article 227 of the Constitution of India for keeping the subordinate Courts within



the bounds of their jurisdiction are discussed elaborately in the above case.

6. Considering the case on hand, H.M.O.P.No.102 of 2014 itself is filed in the year 2014 and pleadings have also been completed and immediately, after counter, the learned trial Judge has taken up the matter for enquiry, the petitioner cannot have any grievance in the proceedings of the learned trial Judge. As held by the Supreme Court, the frequent exercise of this power will be counterproductive and divest the extraordinary power of its strength and vitality. Therefore, the relief sought for by the revision petitioner seeking a time frame for the disposal of H.M.O.P.No.102 of 2014 cannot be entertained. Hence, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

The III-Additional Sub Judge,
Karur.

+1cc to Mr.A.Esakkiappan, Advocate Sr.No.7061

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