



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 23.02.2015

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.R.P (MD) No.277 of 2015

WEB COPY

S.Sundarapandian

... Petitioner

Vs.

K.Sivaneshwari

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to direct the Sub Court, Thirumangalam to dispose of H.M.O.P.No.18 of 2013 on its file within the time stipulated by this Court.

For Petitioner : Mr.N.Pon Senthil Kumaran

ORDER

This Civil Revision Petition is filed for a direction seeking early disposal of H.M.O.P.No.18 of 2013 on the file of the Sub Court, Thirumangalam.

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.18 of 2013.

4. H.M.O.P.No.18 of 2013 is filed on 03.01.2013 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. At this stage, the revision petition is filed seeking for a direction for speedy disposal of H.M.O.P.No.18 of 2013 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:-

"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.

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.18 of 2013 itself is filed in the year 2013 and the matter has been adjourning for filing counter, 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.18 of 2013 cannot be entertained. Hence, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar(Writs)

/TRUE COPY/

Sub Assistant Registrar

To

The Subordinate Judge,
Thirumangalam.

+1cc to Mr.S.Pon Senthil Kumaran,Advocate SR.No.8152

C.R.P (MD) No.277 of 2015
23.02.2015

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