

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2016

CORAM

THE HONOURABLE THIRU JUSTICE **M. DURAISWAMY**

C.R.P.(NPD)Nos.675 and 676 of 2014

Selvanayaki

... Petitioner in both the revisions

vs

P. Senthilkumar
revisions

.... Respondent in both the

Civil Revision Petitions filed under Article 227 of the Constitution of India against the order dated 22.11.2013 in returning the Review Petition in unnumbered I.A.S.R.Nos.3755 and 3756 of 2013 in MOP Nos.5 and 6 of 2008 on the file of Subordinate Court, Harur.

For Petitioner : Mr.J. Prakasam
For respondent : Mr.V. Lakshmi Narayanan

COMMON ORDER

Challenging the returns made by Subordinate Court, Karur in

unnumbered application in I.A.S.R.No.3755 of 2013 in MOP No.5 of 2008 and unnumbered application in I.A.S.R.No.3756 of 2013 in MOP No.6 of 2008 on the file of Subordinate Court, Karur, the petitioner, who is the wife of the respondent, has filed the above Civil Revision Petition.

2. M.O.P.No.5 of 2008 has been filed by the revision petitioner for restitution of conjugal rights and M.O.P.No.6 of 2008 was filed by the respondent/husband for divorce on the ground of cruelty and desertion.

3. The trial Court, after taking into consideration the oral and documentary evidences, dismissed the petition in MOP No.5 of 2008, filed by the petitioner/wife and allowed the petition in MOP No.6 of 2008, filed by the respondent/husband and granted a decree for divorce.

4. Subsequently, the revision petitioner filed unnumbered applications in I.A.S.R.Nos.3755 and 3756 of 2013 to review the order dated 25.10.2013. In the unnumbered applications, the revision

petitioner has sought for review of the judgment and decree dated 25.10.2013 until the disposal of the Civil Revision Petition in CRP (PD) No.4307 of 2012, pending on the file of this Court.

5. It is a settled position that under Order 47 Rule 1 of Civil Procedure Code, review of an order can be done only if there is an error apparent on the face of the record. However, the trial Court, without going into this aspect, returned the applications, filed by the revision petitioner, stating that the orders were passed in MOP Nos.5 and 6 of 2008 on 25.10.2013.

6. It cannot be disputed that the review application would lie only after the disposal of the Original Petitions. Therefore, the returns, made by the trial Court, stating that the orders were passed in MOP Nos.5 and 6 of 2008 dated 25.10.2013, cannot be sustained. However, in order to give an opportunity to the revision petitioner to make her submissions with regard to the maintainability of the applications, I give liberty to her to make her submissions before the Subordinate Court, Karur within one week from the date of receipt of a copy of this order. After hearing the counsels for the petitioner and

the respondent, the Subordinate Judge, Karur is directed to decide the

M. DURAISWAMY,J.,

sr

issue with regard to the maintainability of the applications, on merits and in accordance with law. With these observations, the Civil Revision Petitions are disposed of. No costs.

15-11-2016

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Index:no
website:yes

Note: Issue Order copy on 17.11.2016

Note: Registry is directed to return the original copy of the affidavit and petition filed in IASR Nos.3755 & 3756/ 2013 in MOP Nos.5 and 6 of 2008 to the counsel for the petitioner.

To

The Subordinate Court, Karur

CRP(NPD)Nos.675 & 676/2014

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