

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.11.2016
CORAM

The Hon'ble Mr.Justice K.K.Sasidharan

C.R.P.(PD)No.85 of 2014
and
M.P.Nos.1 and 2 of 2014

Vadivammal Achi.

...Petitioner/s

Vs.

M.Kalyanasundaram

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal, order, dated 25.10.2013, passed in I.A.No.35 of 2013, in H.M.O.P.No.98 of 2012, on the file of the Subordinate Court, Nagapattinam.

For Petitioner : Mr.K.Shekaespeare
For Respondent : No appearance

ORDER

The respondent initiated proceedings for divorce in H.M.O.P.No.98 of 2012, before the Subordinate Court, Nagapattinam. In the said proceedings, the petitioner filed an Application in I.A.No.35 of 2013, claiming maintenance.

2. The Application was dismissed by the learned trial Judge with a direction to the petitioner to face trial. The said Order is under challenge in this Civil Revision Petition.

3. Heard the learned counsel appearing on behalf of the petitioner. None appears on behalf of the respondent, inspite of printing his name in the cause list after service.

4. The petitioner filed an Application for maintenance, in I.A.No.35 of 2013. In a Petition under Section 24 of the Hindu Marriage Act, the trial Court is expected to consider the matter on merits even before the disposal of the matrimonial proceedings. The trial Court adopted a normal device of disposal of the Interlocutory Application, by directing the petitioner to face trial.

5. I am not in a position to agree with the views expressed by the trial Court. The learned trial Judge ought to have decided the Application before taking up the proceedings in H.M.O.P.No.98 of 2012, for disposal. I am, therefore, of the view that the issue requires fresh consideration.

6. The Order, dated 25.10.2013, is set aside. The Application in I.A.No.35 of 2013, is restored to file.

7. The learned trial Judge is directed to decide the Application in I.A.No.35 of 2013, on merits and as per law. Such exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. The question of taking up of the proceedings in H.M.O.P.No.98 of 2012, for disposal would arise only after the disposal of the Application in I.A.No.35 of 2013.

8. The Civil Revision Petition is allowed with the above observation. No costs. Consequently, connected Miscellaneous Petitions are closed.

25.11.2016

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Index : Yes/No

Internet ; Yes/No

K.K.Sasidharan,J.,

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To

The Subordinate Court,
Nagapattinam.

C.R.P.(PD)No.85 of 2014

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