

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.(PD) No.1661 of 2013  
and M.P.No.1 of 2013

1.Minor Dharaneeswaran  
2.Padmavathi

... Petitioners

Vs.

Senthilkumar

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 15.03.2013 made in I.A.No.779 of 2002 in O.S.No.154 of 2010 on the file of the learned Subordinate Judge of Dharapuram.

|                 |   |                |
|-----------------|---|----------------|
| For Petitioners | : | Mr.N.Manokaran |
| For Respondent  | : | No appearance  |

**ORDER**

The Civil Revision Petition is filed by the petitioner/plaintiff against the order passed in I.A. No.779 of 2012 in O.S.No.154 of 2010 on 15.03.2013, rejecting the application to struck off the defendants from the suit.

2. The counsel for the petitioner appears and none appears for the respondent, inspite of the name of the respondent being printed in the cause list.

3. The learned counsel for the petitioner contended that the right of maintenance is a basic right of livelihood and the respondent / defendant has not paid the interim maintenance which would affect the life of the petitioner.

4. The petitioner fairly contested the suit and engaged the counsel properly. The learned counsel for the petitioner contended that due to the non payment of interim maintenance, the defence available to the defendant would have to be struck-off. The interim maintenance of Rs.1,500/-p.m. was not paid for about five years and the petitioners have belatedly filed a petition to strike off the defence. Therefore, the impugned order of the trial Court rejecting their application is infirm and liable to be set aside. Though there is no appearance for the respondent only in this revision petition, this Court has carefully gone through the reasons given by the trial Court.

5. In the impugned order dated 15.03.2013, the trial Court considered the allegations and the counter allegations made by the respective parties and gave a categorical finding that the petition for struck-off was filed after 1 ½ years of the order of interim maintenance and the trial was already in progress

and further issued directions to the parties to complete their evidence for disposing of the suit within a period of six weeks. Therefore, this Court of the considered opinion that the petitioner ought to have completed the evidence within a period of six weeks and instead, the petitioner has filed the revision petition, which is pending for about three years.

6. Under these circumstances, this Court is not inclined to consider the submissions made by the petitioner and accordingly, the order passed by the Sub-Court, Dharapuram is confirmed and the Civil Revision Petition is dismissed.

7. At this juncture, the learned counsel for the petitioner made a submission that a direction may be given to the trial Court for speedy disposal of the suit. Considering the said submission which is reasonable, the trial Court is directed to take up the matter on day-to-day basis and dispose of the suit as early as possible, preferably within a period of three months from the date of receipt of a copy of this order. No costs. The Miscellaneous Petition is closed.

07.10.2016

**S.M.SUBRAMANIAM, J.**

vsi2

To  
The Subordinate Judge,  
Dharapuram.

**C.R.P. (PD) No.1661 of 2013**

07.10.2016