

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2784/2016

Vidyaarthi C.Ramamoorthi : Petitioner
versus

1.Chinnah Ramamoorthi
2.Pradeep Ganesan : Respondents

PRAYER: Revision filed to dispense with the personal appearance of the petitioner in unnumbered memo in O.P.No.1442 of 2016, pending on the file of the Principal Family Court, Chennai.

For petitioner : Mr.T.Gowthaman

For respondent : Mr.Sivananda Das

ORDER

The first respondent initiated proceeding in O.P.No.1442 of 2016, before the Principal Family Court, Chennai, praying for a decree of dissolution of marriage between the parties. The petitioner was set exparte in the said proceedings. The petitioner filed a memo through her counsel before the Family Court to reject the original petition on account of the proceedings taken before the Circuit Court for the County of Oakland in the State of Michigan. The petitioner has come up with this civil revision petition to direct the trial court to dispense with her personal appearance.

2. This Court issued notice to the respondent. The respondent entered appearance through counsel. During the currency of this civil revision petition, the petitioner filed an application to set aside the exparte order and another application to permit her to appear through power agent. According to the petitioner, she has also filed an application to decide the maintainability of the matrimonial proceedings before the Family Court, Chennai.

3. The learned counsel for the petitioner wanted a direction to be given to the trial court to take up the issue regarding maintainability at the first instance.

4. The learned counsel for the first respondent on the other hand submitted that all the issues, including the issue regarding maintainability could be taken up together.

5. The petitioner wanted the trial Court to decide the question of maintainability as a preliminary issue as according to her, Courts in India have no jurisdiction to try the matter. The point raised by the petitioner would go to the root of the matter. Therefore, it would be in the interest of both the parties to decide the issue of maintainability at the first instance.

The question of considering the merits of the matter would arise only in case the Court arrives at a conclusion that the original petition is maintainable.

6. The learned Principal Judge, Family Court, Chennai, is directed to take up the application stated to have been filed by the petitioner and decide the question of maintainability as expeditiously as possible. The petitioner should be permitted to be represented through her power agent, as she is presently at the United States of America. The learned Principal Judge shall dispose of the application filed by the petitioner to set aside the exparte order in view of the background facts.

7. The civil revision petition is disposed of with the above direction. No costs. Consequently, C.M.P.No.14208 of 2016 is closed.

06.10.2016

Index:Yes/no
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To
The Principal Family Court, Chennai.

K.K.SASIDHARAN, J.

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