

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

CRP(PD)No.2889 of 2016
and C.M.P.No.14600 of 2016

Arthi Rajarathinam
Rep. by its Power Agent
Banumathi

... Petitioner

Versus

Pradeep Ravi
Rep. by its Power Agent
Kala Rani Ravi

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, praying for a direction to the Family Court, Coimbatore, to take the unnumbered Interim Application in I.A.SR.No.1912 of 2016 in H.M.O.P.No.438 of 2016 on the file of Family Court, Coimbatore, filed by the petitioner.

For Petitioner : Mr.S.Chandrasekar

For Respondent : Mr.S.Thangavelu

ORDER

The respondent initiated a proceedings in H.M.O.P.No.438 of 2014 before the Family Court at Coimbatore praying for a decree of divorce. The Original Petition was contested by the petitioner by filing counter. When the matter was posted for cross examination of the respondent as P.W.1, the petitioner has filed an application to defer the trial. The application was returned by the Trial Court with a query as to how the application is maintainable at that point of time. The said order is under challenge in this

Civil Revision Petition.

2. The learned counsel for the petitioner submitted that the petitioner wanted to visit India in January 2017. Since the respondent refused to sign necessary papers to obtain Visa, she would not be in a position to come over here with the minor child. According to the learned counsel, the respondent would visit India in January 2017 and as such, a direction should be given to the Trial Court to defer the trial.

3. The learned counsel for the respondent on the other hand submitted that the respondent is working in United States of America and immediately, after the trial, he has to go back to U.S.A. Therefore, the trial Court was correct in returning the application on account of commencement of the trial.

4. The respondent filed his proof affidavit on 05.04.2016. It was only when the matter was posted for cross examination of the respondent as P.W.1, the application in I.A.Nos.SR1912 of 2016 was filed by the petitioner. The learned trial Judge was therefore correct in returning the application on account of commencement of the trial.

5. The personal appearance of the petitioner is not necessary for cross examination of P.W.1, who is the respondent herein. It is only when the matter is posted for evidence on the side of the petitioner, she has to

come to India. After hearing the counsel for both parties and perusing the order under challenge, I am of the view that an equitable order has to be passed in the Civil Revision Petition.

6. The learned Judge, Family Court, Coimbatore is directed to post the matter on 16.11.2016, for cross examination of P.W.1. Thereafter, the matter shall be posted during the first week of February 2017 for recording evidence of the petitioner herein. In case, there is still difficulty for the petitioner to come to India, it is open to her to file an application before the Trial Court for examination through Video Conferencing.

7. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

03.11.2016

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To

The Family Court,
Coimbatore.

K.K.SASIDHARAN, J.

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