



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.08.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P. (MD) .No.1507 of 2016

G.Justin Sunil Dhas

.. Petitioner

Vs.

Jose Brightly

.. Respondent

Prayer: Petition filed under Article 227 of Constitution of India, to set aside the order passed in unnumbered D.O.P.No. of 2016, dated 16.06.2016 and to direct the learned District and Sessions Judge, Kanyakumari District at Nagercoil to number the petition.

For Petitioner : Mr.R.J.Karthick

ORDER

This Revision is directed against the order passed by the learned District and Sessions Judge, Kanyakumari District at Nagercoil in unnumbered D.O.P., dated 16.06.2016.

2. Heard the learned counsel appearing for the petitioner and perused the records.

3. Mr.R.J.Karthick, learned counsel for the petitioner would submit that the earlier original petition in I.D.O.P.No.130 of 2011 filed by the petitioner against the respondent for restitution of conjugal rights, was allowed. Against that order, the respondent has preferred an appeal in C.M.A.No.735 of 2014. Pending appeal, the petitioner has filed the present original petition for divorce on the ground of desertion and cruelty. However, the learned District Judge, Kanyakumari refused to number the case, on the ground of pendency of the appeal.

4. The grievance of the petitioner is that the present divorce petition is filed on the ground of cruelty and the pendency of the appeal cannot be a ground to refuse to number this original petition. The petitioner has averred about the cruelty allegedly caused by the respondent.



5. In such view of the matter, the Civil Revision Petition is allowed and the order passed in unnumbered D.O.P., dated 16.06.2016 is set aside. The learned District and Sessions Judge, Kanyakumari Division, at Nagercoil is directed to number the divorce original petition, if it is otherwise in order. No costs.

/True Copy/

Sd/-
Assistant Registrar(W)

Sub-Assistant Registrar

To

The District and Sessions Judge,
Kanyakumari District at Nagercoil

+One cc to M/s.R.J.Karthick, Advocate, SR.No.41968

pmu
RL/3C/2P/DB/11/8/2016

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