



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

CRP(MD) .No.1687 of 2016

R. Kathirvel : Revision Petitioner

Vs.

Jothipriya : Respondent

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India to direct to number the un-number HMOP.No..... of 2016 in HMOP.SR.No.5698 of 2016 on the file of the Sub Court, Palani, Dindigul District by allowing this revision.

For Petitioner : Mr. S. Karthik

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed to number the un-numbered HMOP.No..... of 2016 in HMOP.SR.No.5698 of 2016, on the file of the Sub Court, Palani, Dindigul District.

2. The petitioner has filed the present revision before this Court for limited prayer, directing the learned Subordinate Judge, Palani, Dindigul District to number the un numbered HMOP in HMOP.SR.No.5698 of 2016 on the file of the Sub Court, Palani, Dindigul District. The said HMOP was returned on 01.08.2016 with an endorsement that "How the petition is maintainable, not completed one year".

3. The learned counsel appearing for the petitioner submitted that the said HMOP filed under under Section 12(1) of the Hindu Marriage Act, 25/1996. Therefore, there is no time limit is prescribed under Section 12 of the Hindu Marriage Act and the said time limit only prescribed under Section 14 of the Hindu Marriage Act. In spite of that action, the said HMOP was returned for compliance of the defects pointed out by the Sub Court,



4. The learned counsel for the petitioner relies upon the decision reported in **1998(4) ALD 112, 1998(3) ALT 690, I (2000) DMC 404 (Ravulapalli Yogamma Vs. Thellamekala Venkata Ratnam)**, Wherein para nos. 6 and 9, the Division Bench of the Andhra High Court has held as follows:-

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6. We are therefore of the view that in the absence of any stipulation of time by the Legislature for presenting an application under Section 12, the lower Court is not justified in rejecting the application on the ground that the application should have been filed after one year of the marriage as provided under Section 14 of the Hindu Marriage Act.

9. We are therefore of the view that the order of the trial Court, in the light of the provisions contemplated under Section 12, which are distinct, cannot be sustained. It is accordingly set aside. Consequently, the appeal is allowed. The matter is remanded back to the trial Court and the trial Court shall proceed to decide the matter afresh on merits according to law. It is desired that the trial Court will dispose of the matter as expeditiously as possible, preferably within six months from the date of receipt of the copy of this order.

5. In view of the above said decision, this Court is inclined to pass the following order:-

(i) The petitioner is directed to represent the HMOP within a week from the date of receipt of a copy of this order. Thereafter, the Sub Court, Palani, Dindigul is directed to number the said HMOP under Section 12 of the Hindu Marriage Act, without any prejudice to the right of the parties to raise objection at the later stage.

(ii) Registry is directed to return the original papers after obtaining the xerox copy of the said HMOP.

6. With the above direction, the Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar(Writ

/True Copy/

Sub Assistant Registrar



To

The Sub -Ordinate Judge,
Palani,
Dindigul District.

+1cc to Mr.S.KARTHICK, Advocate Sr.No. 65675

JAM/18.11.16/GSV-PM/3P-3C

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