



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2016

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.444 of 2016 (PD)

and

C.M.P. (MD) .No.1932 of 2016

Ramachandran .. Petitioner/Respondent/Petitioner
Vs.
Subapriya .. Respondent/Petitioner/Respondent

Prayer : This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 11.12.2015, made in I.A.No.264 of 2015 in H.M.O.P.No.159 of 2014 on the file of the Sub Court, Kovilpatti.

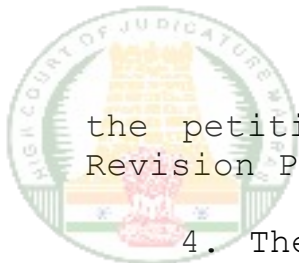
For Petitioner : Mr.B.Rajesh Saravanan

O R D E R

This Civil Revision Petition is filed against the fair and decretal order dated 11.12.2015, made in I.A.No.264 of 2015 in H.M.O.P.No.159 of 2014 on the file of the Sub Court, Kovilpatti.

2. The petitioner filed H.M.O.P.No.159 of 2014 against the respondent, for divorce on the file of Sub Court, Kovilpatti. The said HMOP was decreed ex-parte on 06.06.2015. The respondent filed an interlocutory application in I.A.No.264 of 2015 to set aside the ex-parte decree. According to the respondent, the petitioner deliberately sent notice in H.M.O.P to the wrong address and not to the address, where the respondent is residing. She gave a complaint to the All Women Police Station, Tirunelveli on 29.09.2015. At the time of enquiry, the petitioner produced the copy of the ex-parte decree. Only on that day, the petitioner came to know of the exparte decree. Immediately, she filed the application in I.A.No.264 of 2015 to set aside the ex-parte decree.

3. The petitioner resisted the same denying the allegations made by the respondent that the petitioner played fraud. He further submitted that the respondent filed petition, to set aside exparte decree without filing a petition to condone the delay in filing the petition for setting aside the exparte decree. The learned counsel for petitioner, considering the facts and materials on record and judgment relied on by the learned counsel for respondent, allowed the application and set aside the exparte decree. Against that,



the petitioner has come up before this Court, with this Civil Revision Petition.

4. The learned counsel for the petitioner contended that the learned Judge erred in allowing the petition, to set aside the ex-parte decree, without there being any application to condone the delay. It is not correct to state that the respondent came to know about the ex-parte decree only on 29.09.2015. The respondent suppressed the fact that she received the private notice sent by the petitioner. Therefore, the petitioner prayed for allowing this Civil Revision Petition.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. From the records, it is seen that notice sent through Court was not served on the respondent. The respondent has not signed in acknowledgement of receipt of notice, but somebody else has signed in the acknowledgment. The petitioner did not deny the averments that notice was sent to her brother's address, where she or her family members are not residing. The learned Judge considered all these aspects and came to the conclusion that the respondent knew about the ex-parte decree only on 29.09.2015 and relying on the ratio in the judgment reported in 2009 (3) CTC 342 and allowed the application. This Court finds that there is no illegality and irregularity in the order of the court below warranting interference by this Court. Hence, this Civil Revision Petition is liable to be dismissed.

7. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed. The HMOP is of the year 2014. The learned Subordinate Judge, Kovilpatti is directed to hear H.M.O.P.No.159 of 2014 and pass orders on merits and in accordance with law, as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

The Subordinate Judge, Kovilpatti.

+One cc to Mr.B.Rajesh Saravanan, Advocate, SR.No.11091

PJL

RL/3C/2P/ARK/PV/SARI/9/6/2016

C.R.P (MD) No.444 of 2016 (PD)

and

C.M.P. (MD) .No.1932 of 2016

25.02.2016