

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.06.2017

Coram:

The Honourable Ms.**Justice V.M.VELUMANI**

C.R.P.(PD)No.226 & 227 of 2017
and C.M.P.Nos.976 & 8764 of 2017

M.Jegankumar

... Petitioner in
both CRPs.

Vs.

S.Savitha

... Respondent in
both CRPs.

Civil Revision Petitions filed under Article 227 of the Constitution of India against the docket orders of the Family Court, Erode dated 16.12.2016 made in I.A.No.1133 of 2016 in I.A.No.910 of 2016 in FCOP.No.127 of 2016 and order dated 24.11.2016 made in I.A.No.910 of 2016 in FCOP.No.127 of 2016.

For Petitioner : Mr.S.Venkatesh

For Respondent : M/s.R.V.Dinesh Raj Kumar

COMMON ORDER

Th Civil Revision Petitions filed against the docket orders of the Family Court, Erode dated 16.12.2016 made in I.A.No.1133 of 2016 in

I.A.No.910 of 2016 in FCOP.No.127 of 2016 and order dated 24.11.2016 made in I.A.No.910 of 2016 in FCOP.No.127 of 2016.

2. In both the civil revision petitions, the issues are one and the same and hence, they are disposed of by this common order.

3. The petitioner is husband and respondent is wife. The respondent filed F.C.O.P.No.127 of 2016 for dissolution of marriage held on 07.07.2002. The petitioner entered appearance through an Advocate and filed counter statement. Trial commenced. The respondent filed proof affidavit on 17.09.2016 and F.C.O.P. was adjourned to cross examination by the petitioner. But the petitioner did not cross examine. He was called absent and set exparte on 30.09.2016 and exparte order was passed on 14.10.2016.

4. The petitioner filed I.A.No.910 of 2016 to set aside the exparte order passed on 14.10.2016. The said application was allowed by order dated 24.11.2016 on condition that the petitioner to pay a sum of Rs.2,000/- to the respondent. The petitioner did not pay the said cost and he filed I.A.No.1133 of 2016 for extension of time to comply with the order dated 24.11.2016 passed in I.A.No.910 of 2016.

5. The learned Judge dismissed both the applications on the ground that the petitioner has not offered to pay the cost even on the date of hearing and has not complied with the condition imposed in I.A.No.910 of 2016.

6. Against the order of dismissal passed in I.A.No.910 of 2016 in F.C.O.P.No.127 of 2016 & I.A.No.1133 of 2016 in I.A.No.910 of 2016 in F.C.O.P.No.127 of 2016, the present civil revision petitions are filed by the husband/petitioner.

7. Heard both sides and perused the materials available on record.

8. The respondent filed F.C.O.P.No.127 of 2016 for divorce on the file of the Family Court, Erode. She let in evidence. The petitioner did not cross examine the respondent and hence, he was set exparte and exparte order was passed on 14.10.2016. The petitioner filed I.A.No.910 of 2016 to set aside the exparte order and the same was allowed on condition directing the petitioner to pay the cost to the respondent. Subsequently, he filed application in I.A.No.1133 of 2016 for extension of time to comply with the order passed in I.A.No.910 of

2016. Both the applications were dismissed.

9. Considering the fact that issue involved is in the matrimonial matter and being satisfied with the reason for not paying the amount within the time limit and in the interest of justice, the parties must be given an opportunity to conduct the case on merits. In the circumstance, both the Civil Revision Petitions are allowed on condition directing the petitioner to pay the cost of Rs.2,000/- (Rupees Two thousand only) to the respondent within a period of two weeks from the date of receipt of a copy of this order.

10. The learned counsel for the respondent prayed for early disposal of the F.C.O.P. filed by the respondent and submitted that the petitioner also filed H.M.O.P.No.92 of 2016 and the same is pending before the Sub-Court, Gobichettipalayam. To avoid conflicting of judgments, both the F.C.O.P.No.127 of 2016 and H.M.O.P.No.92 of 2016 should be heard together. He has also given an undertaking that the petitioner will not take any adjournment in the trial and he will co-operate in conducting the trial.

11. In view of the above submissions, the Sub-Court, Gobichettipalayam, is directed to transfer H.M.O.P.No.92 of 2016 filed

by the petitioner to the Family Court, Erode, within two weeks from the date of receipt of a copy of this order. On receipt of the case bundle, the Family Court, Erode, is directed to dispose both the F.C.O.P.No.127 of 2016 and H.M.O.P.No.92 of 2016 as expeditiously as possible, in any event not later than four months from the date of receipt of a copy of this order.

12. The Civil Revision Petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

15.06.2017

cgi/kj

To

1. Family Court, Erode.
2. Sub Court, Gobichettipalayam.

V.M.VELUMANI,J.

Cgi/kj

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