

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2017

CORAM

THE HON'BLE Ms.JUSTICE V.M.VELUMANI

**C.R.P.(NPD) No.2489 of 2014**  
**and M.P.No.1 of 2014**

Raju

.. Petitioner

Vs

Vasanthi

.. Respondent

**Prayer:-** Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the fair and final order dated 29.10.2013 passed by the Learned Subordinate Judge of the Nilgiris at Uthagamandalam in E.P.No.57 of 2012 in I.A.No.81 of 2010 in H.M.O.P.No.91 of 2009.

For Petitioner

:

Mr.L.Mouli

**ORDER**

सत्यमेव जयते

This Civil Revision Petition has been filed to set aside the Order dated 29.10.2013 made in E.P.No.57 of 2012 in I.A.No.81 of 2010 in H.M.O.P.No.91 of 2009 passed by the Learned Subordinate Judge of the Nilgiris at Uthagamandalam.

2. The petitioner is the husband and the respondent is the wife. The petitioner filed H.M.O.P.No.91 of 2009 against the respondent for divorce. Pending H.M.O.P., the respondent filed I.A.No.81 of 2010 for interim maintenance and for litigation expenses. The learned Judge ordered a sum of Rs.1000/- per month as interim maintenance and a sum of Rs.3000/- towards litigation expenses. The petitioner did not pay the said amounts so ordered. The respondent filed E.P.No.57 of 2012 under Order XXI Rule 37 of CPC for execution of the order by arresting the petitioner and detaining him in the Civil Prison. The respondent filed an affidavit to show that the petitioner has means to pay the amounts to the respondent.

3. According to the respondent, petitioner is owning landed property and Tea estate. The respondent is running a tailoring shop by doing tailoring business and earning a sum of Rs.50,000/- per month. The respondent has means to pay the decretal amounts. The petitioner filed counter and submitted that H.M.O.P.No.91 of 2009 was disposed of by granting decree of divorce on 05.06.2012 and therefore he is not liable to pay the amounts ordered in the interlocutory application. The learned Judge rejected the said contention and ordered arrest and detention of the petitioner in Civil Prison.

4. Against the said order dated 29.10.2013 made in E.P.No.57 of 2012 in I.A.No.81 of 2010 in H.M.O.P.No.91 of 2009, the present civil revision petition is filed by the petitioner.

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

6. The contention of the learned counsel for the petitioner that in H.M.O.P.No.91 of 2009, a decree of divorce was granted and therefore the order of interim maintenance is not in force. In the circumstances, the petitioner is not liable to pay any amount towards interim maintenance and litigation expenses to the respondent. These contentions are without merits. The interim maintenance ordered by the Court is from the date of petition. According to the counsel for the petitioner, decree of divorce has been granted on 05.06.2012. In the said circumstances, the petitioner is liable to pay the interim maintenance and litigation expenses ordered by the learned Judge from the date of petition till the date of decree of divorce passed in H.M.O.P.No.91 of 2009 i.e., on 05.06.2012. The order of the learned Judge does not suffer any irregularity or illegality warranting interference by this Court.

**V.M.VELUMANI,J**

rna

7. The learned counsel appearing for the petitioner seeks four weeks time to pay the arrears of interim maintenance, as ordered by the learned Judge. In view of the submissions made by the learned counsel for the petitioner, the petitioner is granted four weeks from today, failing which the E.P.Court shall proceed against the petitioner, as per law.

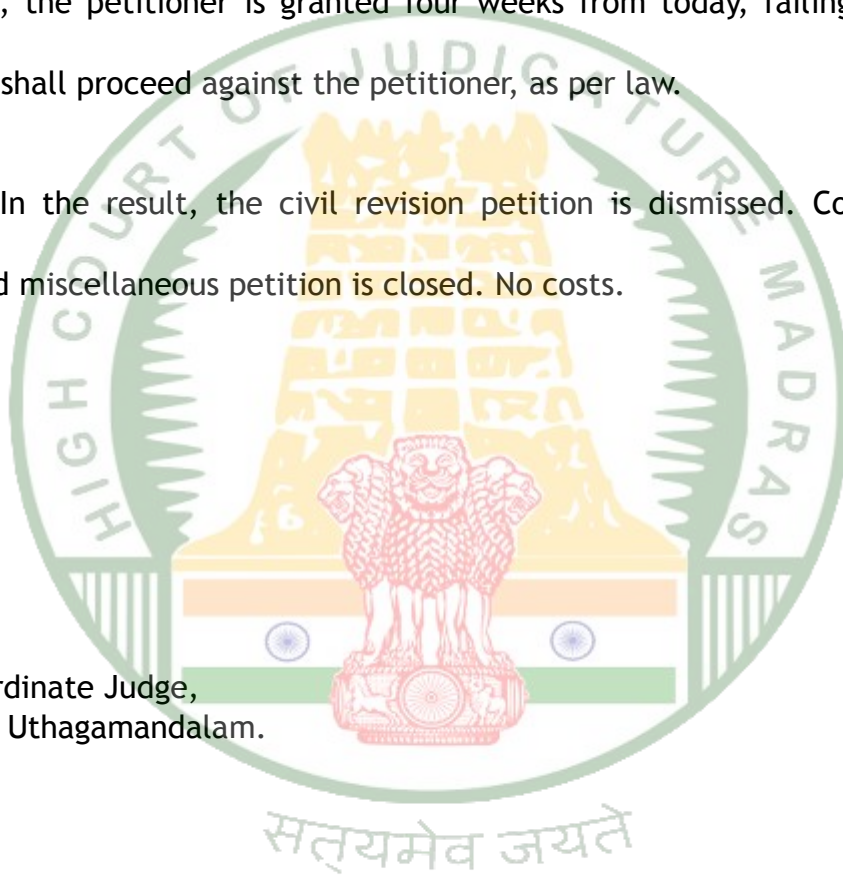
8. In the result, the civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

11.10.2017

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To

The Subordinate Judge,  
Nilgiris at Uthagamandalam.



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CRP (NPD) No.2489 of 2014  
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