

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2017

CORAM

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

**CRP.PD.No.3700 of 2017 and
CMP.No.17173 of 2017**

K.Selvi ... Petitioner

Vs.

V.Manivannan ... Respondent

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the Learned II Additional Family Court, Chennai to dispose the I.A.No.1730 of 2016 in O.P.No.459 of 2014 within a stipulated time frame fixed by this Court.

For Petitioner : M/s. Shaikh Mehrunisa

ORDER

सत्यमेव जयते

According to the petitioner, the petitioner has filed an application in I.A.No.1730 of 2016 for claiming maintenance and the same application has been adjourned for filing documents. In the meantime, the respondent filed a Civil Revision Petition in CRP.No.1440 of 2017 before this Court praying for speedy disposal of HMOP.No.459 of 2014. By order dated 19.04.2017, this Court directed

the II Additional Family Court, Chennai to dispose of the same on or before 30th September 2017. Pursuant to the said order, the court below / family court without considering the said I.A., posted the main HMOP for further evidence. Hence, the petitioner has filed the present Civil Revision Petition before this Court to dispose of the application in I.A.No.1730 of 2016 and then proceed with the main HMOP.

2. On perusal of the records filed in typed set of papers, it is seen that the respondent has filed a petition in HMOP.No.459 of 2014 and thereafter both the parties attended counseling and the case has been adjourned till 01.03.2016. Proof affidavit has been filed by the PW1 and the documents were also marked under Exs.P1 to P5. Thereafter, OP was posted for cross examination of the PW1 and subsequently, an interim stay was granted by this Court on 10.08.2016. Hence, the OP was not proceeded with. And subsequently, the aforesaid case was posted to 05.01.2017 to cross examine PW1. On 25.01.2017, both the parties were present and the same was adjourned for cross examination of PW1. As such, the said OP has been adjourned from time to time to cross examine PW1 and on 05.07.2017, the court has recorded that it is bound time order passed by the High Court and in spite of that the respondent was not

ready for cross examination on 11.07.2017. On 18.07.2017, the respondent was ready, but no cross examination on that day. Further proceedings has not been furnished by the revision petitioner in the present typed set of papers. But the contention of the petitioner is that the family court, without disposing of the I.A., taking up hearing of the OP would prejudice the right of the petitioner for interim maintenance. On seeing the facts of the case, from 2016, the OP is posted for cross examination of PW1 on the petitioner side in spite of several opportunities granted to the petitioner. OP was filed in the year 2014. After the proof affidavit filed by PW1 and posted for cross examination of PW1, the revisional petitioner has filed an application in I.A.No.1730 of 2016 on 16.03.2017 and the same has been adjourned from time to time for enquiry. At this stage, the present Civil Revision Petition has been filed before this Court for disposal of the aforesaid I.A. By taking into consideration of the order passed by this Court and the proof affidavit of PW1 filed and posted for cross examination of PW1 and the present application in I.A. No.1730 of 2016 has been filed at the time of commencing the trial, filing the present Civil Revision Petition before this Court for the aforesaid prayer cannot be considered.

3. Therefore, since the petitioner has not cross examined PW1 from the year 2016, I am not inclined to entertain the Civil Revision Petition at this stage. However, it is open to the family court to decide the said application I.A.No.1730 of 2016 in accordance with law.

4. In the result, the Civil Revision Petition is disposed of as above. Consequently, the connected miscellaneous petition is closed. No costs.

05.10.2017

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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To
The II Additional Family Court,
Chennai



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D. KRISHNAKUMAR J.

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सत्यमेव जयते

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