

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2017

CORAM

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

CRP.NPD.No.4203 of 2017
and
CMP.No.19715 of 2017

P.S.Sriramulu

...Petitioner/Petitioner/Respondent/Respondent

Vs.

Vasanthi

... Respondent/Respondent/Petitioner/Petitioner

Prayer : The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code against the order dated 28.09.2017 passed in I.A.No.446 of 2017 in I.A.No.541 of 2014 in O.P.No.418 of 2014 on the file of the Family court at Vellore.

For Petitioner : Mr.J.Saravana vel

For Respondent : Mr.V.Raghavachari

ORDER

The petitioner has filed an application in I.A.No.446 of 2017 in I.A.No.541 of 2014 for condoning the delay of 35 days in filing set aside petition. The said application was allowed by the learned

Family Court on the condition that the petitioner shall pay 1/3 of the interim maintenance amount till the date of order and half of the litigation expenses. Challenging the above said order, the present Civil Revision has been filed.

2. According to the petitioner, the condition imposed by the Court below is very onerous. The said order is passed by the Court below without giving any opportunity to the petitioner. Further, the Counsel for the petitioner submits that the petitioner is unable to pay the conditional amount and the petitioner is an agriculturist having annual income of Rs.72,000/- and is aged about 60 years. Therefore, he has filed the Civil Revision Petition before this Court.

3. The learned counsel for the respondent submits that the petitioner has filed an application with false averments. Therefore the petitioner's application has to be dismissed. The learned counsel for the respondent would further submit that the learned trial Judge has recorded that the statement made by the petitioner that he was bedridden and therefore he could not contact his counsel was found to be false. The learned counsel for the petitioner would submit that the order of the trial Court does not warrant any interference.

4. The learned counsel for the petitioner reiterated the

contention taken before the trial Court that the petitioner was bedridden and therefore he could not contact his counsel and file a counter affidavit. However, the learned counsel undertakes to pay a sum of Rs.75,000/- (Rupees seventy five thousand only) as interim maintenance to the respondent within a period of four weeks subject to outcome in I.A.No.541 of 2014.

5. In view of the statement made by the learned counsel for the petitioner, the order passed by the lower Court insofar as imposing condition is modified as follows:

i) The petitioner is directed to pay a sum of Rs.75,000/- to the respondent herein within a period of four weeks from the date of receipt of a copy of this order; and

ii) if the petitioner furnish the receipt for payment of Rs.75,000/- (Rupees Seventy five thousand only) to the respondent, the learned Family court is directed to dispose of the I.A.No.541 of 2014 within a period of four weeks.

D. KRISHNAKUMAR J.

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6. The Civil Revision Petition is allowed with above observations.
No costs. Consequently, the connected miscellaneous petition is closed.

20.11.2017

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

The learned Judge,
Family Court,
Vellore.



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