

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2017

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THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.778 of 2017

and C.M.P.No.3836 2017

S.Bhuvaneswari

..Petitioner

vs.

Dr.J.Jagadeesan

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 20.07.2016 made in C.M.A.No.4 of 2016 on the file of the Principal District Judge, Salem, confirming the order dated 30.10.2015 made in I.A.No.127 of 2014 in H.M.O.P.No.28 of 2007 on the file of the Subordinate Judge, Mettur.

For petitioner : Mr.R.Vinoth Kumar
For respondent : Mr.P.B.Balajji

ORDER

Heard both sides.

2.1 Challenging the Judgment and decree dated 20.07.2016 passed in C.M.A.No.4 of 2016 on the file of the Principal District Court,

Salem, confirming the fair and decreetal order dated 30.10.2015 passed in I.A.No.127 of 2014 in H.M.O.P.No.28 of 2007 on the file of the Subordinate Court, Mettur, the petitioner, who is the wife of the respondent has filed the above Civil Revision Petition.

2.2. The respondent has filed H.M.O.P.No.28 of 2007 for divorce on the ground of cruelty and desertion. The petitioner filed her counter and is contesting the Original Petition.

2.3. In H.M.O.P.No.28 of 2007, the petitioner filed an application in I.A.No.127 of 2014 for framing issues. The application filed by the petitioner was opposed by the respondent stating that the proceedings is summary in nature and therefore, there is no necessity for framing the issues.

2.4. The trial Court, taking into consideration the case of both the parties, dismissed the application, against which, the petitioner preferred an appeal in C.M.A.No.4 of 2016 and the lower Appellate Court also confirmed the fair and decreetal order passed by the trial Court. Aggrieved over the concurrent finding of the Courts below, the petitioner has filed the above Civil Revision Petition.

3. When the matter is taken up for hearing, learned counsel on either side submitted that the trial Court may be directed to frame issues and decide the matter on merits and in accordance with law, within a time frame. Further, Mr.P.B.Balaji, learned counsel appearing for the respondent husband submitted that the Original Petition is pending for nearly 10 years and therefore, a short time may be fixed for the disposal of the Original Petition. That apart, the learned counsel on either side also filed draft issues. The learned counsel on either side also submitted that the trial Court may be directed to frame all the 11 issues and decide the matter on merits and in accordance with law.

4. Having regard to the submissions made by the learned counsel on either side, the draft issues filed by the learned counsel on either side is taken on record and the trial Court viz., the Subordinate Court, Mettur is directed to frame those issues and decide the matter, after giving an opportunity to both the parties to file fresh proof affidavits and also giving the other party an opportunity to cross examine.

5. Accordingly, the Judgment and decree dated 20.07.2016 passed in C.M.A.No.4 of 2016, confirming the fair and decreetal order dated 30.10.2015 passed in I.A.No.127 of 2014 in H.M.O.P.No.28 of 2007 are set aside. The Civil Revision Petition is allowed.

M. DURAISWAMY,J.,

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6. Since the Original Petition is pending for nearly 10 years, I direct the Subordinate Judge, Mettur to dispose of the Original Petition in H.M.O.P.No.28 of 2007 on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

No costs. Connected miscellaneous petition is closed.

13.03.2017

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To
The Principal District Judge, Salem,
The Subordinate Judge, Mettur.

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