



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:17.11.2017

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.2108 of 2017

Manimaran .. Petitioner/Petitioner
vs.
Rathikani ... Respondent/Respondent

PRAYER: Petition filed under Article 227 of the Constitution of India, to direct the learned Subordinate Judge, Srivilliputtur to dispose of H.M.O.P.No.147 of 2012 within time limit as fixed by this Court.

For Petitioner : Mr.M.Thirunavukkarasu

ORDER

The above Civil Revision Petition has been filed seeking a direction to the learned Subordinate Judge, Srivilliputtur to dispose of H.M.O.P.No.147 of 2012 within a stipulated time as fixed by this Court.

2. The petitioner would aver among other things that the marriage between the petitioner and the respondent was solemnized on 01.09.2008. Since the respondent without any valid reason deserted the petitioner, he filed H.M.O.P.No.43 of 2010 for restitution of conjugal rights and an ex-parte decree was granted in the said H.M.O.P. Thereafter, the respondent failed to live with the petitioner and hence, the petitioner filed H.M.O.P.No.123 of 2011, which was transferred and renumbered as H.M.O.P.No.147 of 2012. In the meantime, the respondent filed an application in I.A.No.12 of 2012 for interim maintenance to her minor son. The trial Court, by order dated 09.03.2012, ordered a sum of Rs.2,500/- towards maintenance to the minor son. Thereafter, the petitioner filed a petition in C.R.P.No.129 of 2015 before this Court to dispose H.M.O.P.No.147 of 2012 and this Court by order dated 30.01.2015 directed the trial Court to dispose the H.M.O.P. on or before 30.03.2015. Despite the direction given by this Court, the trial Court has not disposed the same within the stipulated time as fixed by this Court.

3. In the meantime, the respondent filed I.A.No.83 of 2015 seeking enhancement of maintenance. The trial Court has also partly allowed the said application by order dated 18.11.2015 and directed the petitioner to pay a sum of Rs.13,000/- towards education expenses of his son. Aggrieved over the same, the respondent filed C.R.P.No.44 of 2016 before this Court and this Court by order dated



06.01.2017 enhanced the maintenance amount awarded by the trial Court from Rs.2,500/- to Rs.3,500/-.

4. Again the petitioner filed C.R.P.No.2551 of 2016 seeking a direction to dispose of H.M.O.P.No.147 of 2012 and this Court directed the trial Court to dispose the above H.M.O.P. on or before 21.03.2017. Thereafter, the respondent has filed a petition to set aside the exparte decree of divorce and the petitioner herein has no objection to allow the above application. Hence, the above H.M.O.P.No.147 of 2012 was restored to file. Thereafter, the respondent filed I.A.Nos.75 and 76 of 2017 for enhancement of maintenance to the tune of Rs.5,000/- and to pay a sum of Rs.43,770 towards school fees.

5. The petitioner submitted that the respondent has deserted the petitioner from 2010 onwards and in one way or other, she has been trying to drag on the matter. According to the petitioner, the trial Court ought to have disposed of H.M.O.P. within a reasonable time and therefore, once again the petitioner has come forward with the present petition to dispose of the H.M.O.P. at an early date.

6. Heard the learned Counsel for the petitioner and perused the materials available on record.

7. The prayer in the petition itself is with a limited prayer for speedy disposal of the case in H.M.O.P.No.147 of 2012 and therefore, no notice is necessary to the respondents.

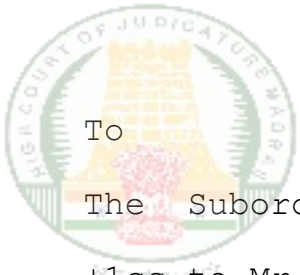
8. Considering the facts and circumstances of the case, this Court is of the view that ends of justice would be met, if a direction is issued to the trial Court. Accordingly, having regard to the submissions made by the learned Counsel for the petitioner and also taking into consideration the earlier orders passed by this Court and the limited prayer sought for in this Civil Revision Petition, without expressing any opinion with regard to the merits of the case, this Court directs the learned Subordinate Judge, Srivilliputtur to dispose of H.M.O.P.No.147 of 2012 on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order. While disposing the H.M.O.P., the trial Court should keep in mind that if the petitioner or the respondent filed any application to drag on the proceedings, the same should be viewed seriously with regard to attitude of the parties concerned.

9. With the above directions, the Civil Revision Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/



To

The Subordinate Judge, Srivilliputtur.

+1cc to Mr.M.Thirunavukkarasu Advocate in SR. No. 87766

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