



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.294 of 2017 (PD)

D.Joel

...Petitioner/Petitioner

Vs.

J.Abisha Justus

....Respondent/Respondent

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to set aside the order, dated 17.10.2016 in D.O.P.filing No.871 of 2016, on the file of the Court of District Judge of Kanyakumari at Nagercoil.

For Petitioner : Mr.J.John Jayakumar

ORDER

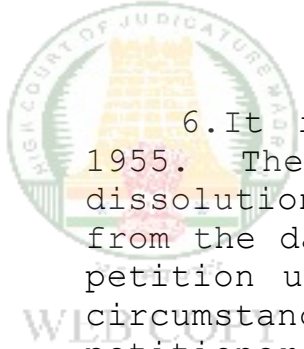
The petitioner has filed this Civil Revision Petition to set aside the order, dated 17.10.2016 in D.O.P.filing No.871 of 2016 passed by the learned District Judge, Kanyakumari at Nagercoil.

2.The petitioner filed D.O.P.Filing No.871 of 2016 against the respondent Under Section 10(x) of the Indian Divorce Act, 1869 on the ground of cruelty. The said D.O.P., was returned by the learned Judge on the ground that the petition under Indian Divorce Act, 1869 can be entertained by the Court only after two years from the date of marriage, for dissolution of marriage or divorce.

3.Against the said return, the petitioner has come out with the present Civil Revision Petition.

4.I have heard the learned counsel appearing for the petitioner and also perused all the materials available on record.

5.From the petition filed by the petitioner for divorce, it is seen that the petitioner has filed a petition under Section 10(x) of the Indian Divorce Act, 1869 on the ground of cruelty. For seeking divorce on the ground of cruelty, there is no time limit fixed in Indian Divorce Act, 1869. Only when a petition is presented under Section 10(iii)(iv)(v)(viii)(ix) of Indian Divorce Act, 1869, two years period of limitation is fixed.



6.It is useful to refer Section 14 of Hindu Marriage Act, 1955. The Court has power to entertain any petition for dissolution of marriage by a decree of divorce only after one year from the date of marriage. There is no such restriction for filing petition under Section 10(x) of Indian Divorce Act, 1869. In the circumstances, the Civil Revision Petition is allowed. If the petitioner represent the petition, the learned District Judge, Kanyakumari District at Nagercoil is directed to number the D.O.P., if it is in order. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

Note: The Registry is directed to return
the original papers to the learned
counsel for the petitioner.

To

The District Judge of Kanyakumari at Nagercoil.

Copy to : The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.J.JOHN JEYAKUMAR Advocate in SR. No.9447
JS/SKN/RSK/17.03.2017/2P-4C

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