



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.06.2017

CORAM :

THE HONOURABLE DR.JUSTICE Dr.G.JAYACHANDRAN

C.R.P (PD) (MD) No.982 of 2017

and

C.M.P (MD) No.4369 of 2017

M.Kathiravan

... Petitioner

vs.

S.Yoga Priyadharshini

... Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to allow the Civil Revision Petition and set aside the order dated 05.04.2017 made in I.A.No.499 in H.M.O.P. No.751 of 2014 on the file of the Family Court, Madurai.

For Petitioner

: Mr. PT.S.Narendravasan

O R D E R

This Civil Revision Petition is filed against the dismissal of the Interlocutory Application, seeking leave of the Court to examine the petitioner through Video conferencing.

2.The facts of the case is as under:

One Mr. M.Kathiravan, who married S.Yoga Priyadharshini, developed discord in the matrimonial relationship and has initiated divorce proceedings before the Family Court, Madurai through his father as his Power Agent. The Court has permitted to file such application and entertained the application in H.M.O.P. No.751 of 2014. Now the matter is posted for examination of witnesses. At this juncture, the power agent has filed an affidavit, seeking leave of the Court to examine the petitioner, namely, M.Kathiravan through video conferencing, who is residing in London. The Trial Court have gone through the petition and dismissed it on the ground that leave to file H.M.O.P No.751 of 2014 in I.A.No. 317 of 2014 by the power agent was allowed, for a limited purpose. The present application filed on behalf of the main petitioner namely, M.Kathiravan is not maintainable and permissible, since the affidavit is not filed by M.Kathiravan but by the power agent. This Court finds no error in the said observation. If any person who is not able to appear before the Court to give evidence, he can resort to alternate method of examining him. One such method is examination through video conferencing. For that purpose, the person concerned should file



an affidavit, explaining his difficulty in appearing before the Court, in person and the alternate course he intend to adopt for examining him.

3. In this case, as pointed out by the Trial Court, it is not the person concerned who has filed the affidavit, but the power agent has sworn the affidavit. The Court had permitted the power agent to represent the petitioner for filing the divorce petition without appearing in person, in view of the extraordinary situation. It is an alternate course of action for the person to initiate legal proceedings without being physically present and it cannot be taken as a leave to conduct the matrimonial dispute through proxy. Particularly, when the case is taken up for trial, divorce proceedings cannot be conducted through power of attorney without examining the person concerned.

4. Therefore, this Court is not inclined to entertain the Civil Revision Petition. The counsel for the revision petitioner submits that the Trial Court is insisting for examination of the witnesses, the petitioner need time to file appropriate affidavit in the divorce proceedings to subject him for examination, as witness through video conference.

5. Therefore, three weeks time is granted for the revision petitioner to approach the Trial Court with appropriate affidavit sworn by the main petitioner and to seek leave of the Court to examine him through video conference. If any such petition is filed, the Trial Court shall consider the same in the light of the judgment, Gayathri Vs. Thirumaran reported in 2017(3) MLJ 593.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar.

To
The Judge,
Family Court, Madurai.

+1CC to M/S.P.T.S.Narendravasan, Advocate, SR.No.58032

C.R.P(PD) (MD) No.982 of 2017

KM/MR

AM/SV MMS/SAR 1/02.06.2017/2P/3C

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