



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P(PD) (MD)No.2520 of 2016

G.Praveen Kumar

...Petitioner/Petitioner

vs.

C.Abirami

... Respondent/Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order and decreetal order dated 17.10.2016 passed in I.A.SR.No.297 of 2016 in H.M.O.P.No.367 of 2015 on the file of Family Court(District Judge), Tiruchirapalli.

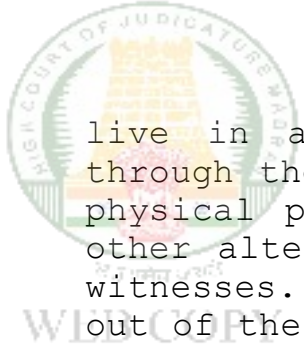
For Petitioner

: Ms.J.Anandhavalli

### O R D E R

The revision petitioner who is the power agent of one Praveen Kumar has filed H.M.O.P.No.367 of 2015 for divorce. The Family Court, Tiruchirappalli, has permitted the power agent to represent the principal Praveen Kumar and when the matter was posted for appearance of the respondent who is also employed in USA and a resident of North Carolina State, USA, she did not turn up for hearing on 30.08.2016. Since, the principal was not present and only the power agent was present on that date, the Family court, Tiruchirappalli, has dismissed the HMOP for default. The application to restore the HMOP dismissed for default was returned by the Family Court on the ground that principal not present.

2.The case of the revision petitioner is that since he is presently living in USA due to his employment, he is not able to pursue his matrimonial case at Family court, Tiruchirappalli. Hence, with the leave of the Court, he has presented the HMOP through his power agent who is none other than his father. Therefore, when the case was specifically posted for appearance of the respondent, the Family Court has dismissed the HMOP for non appearance of the principal though his agent was present. Hence, it is just and necessary to restore the HMOP on file and proceed further.



live in abroad, but want to pursue their matrimonial dispute through their power agent. Due to advancement of technology, the physical presence of the parties are not required and there are other alternate technologies available to examine the parties and witnesses. But, this may not squarely apply to disputes arising out of the matrimonial relationship where the statute contemplates mediation and meeting of sparring parties eye to eye to sort out the disputes.

4.Pathetically, in this case, both the spouse live in abroad and the Court is unable to bring the parties together to either sort out their dispute or to part away amicably. Probably, that might have forced the Family Court to dismiss the HMOP for non appearance of the petitioner. But, this is not the cure for the illness. Court should endeavour to bring the parties either in person or effectively they must be represented to put forth their case. Therefore, this Court of the view that rejection of restoration application for non appearance of the principal/petitioner is not the appropriate order at this juncture.

5.Therefore, the impugned order dated 17.10.2016 passed in I.A.SR.No.297 of 2016 in H.M.O.P.No.367 of 2015 is set aside and the Family Court, Tiruchirappalli, is directed to restore I.A.SR.No.297 of 2016 in H.M.O.P.No.367 of 2015 on file, cause notice to the respondent afresh and then after hearing both parties, pass order in accordance with law instead of short-circuiting the petition by dismissing it for default.

With the above direction, this Civil Revision Petition is allowed. No costs.

Sd/-  
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The District Judge,  
Family Court,  
Tiruchirappalli.

+1cc to M/s. J.ANANDHAVALLI Advocate in SR. No.60119  
NBI  
JS/GT/SAR.2/20.6.2017/2P-3C

C.R.P(PD) (MD) No.2520 of 2016  
12.6.2017