

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3743 of 2015
and M.P.No.1 of 2015

N.Priya

.. Petitioner

Vs.

P.Sureshbabu

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 10.07.2015 made in I.A.No.13 of 2015 in H.M.O.P.No.74 of 2011 on the file of the Subordinate Court, Arni.

For Petitioners : Mr.P.B.Sampath Kumar
for M/s.R.Muthamizh

For Respondent : Mr.R.Anbalagan

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 10.07.2015 made in I.A.No.13 of 2015 in H.M.O.P.No.74 of 2011 on the file of the Subordinate Court, Arni.

2.The petitioner/wife filed H.M.O.P.No.74 of 2011 on the file of the Subordinate Court, Arni against respondent/husband for divorce on the ground of cruelty and desertion. The respondent filed counter statement on 30.08.2012 and was contesting H.M.O.P. The respondent took a stand that the child born to the petitioner was not born to him. The respondent filed I.A.No.17 of 2012 for D.N.A test. The said application was dismissed. C.M.A.No.6 of 2013 filed by the respondent also was dismissed. According to the respondent, the case bundle was sent from the District Court, Thiruvannamalai and Trial Court did not give any date. No notice was served on the respondent. The respondent did not appear before Court for hearing. An exparte order was passed on 19.02.2015. The respondent filed I.A.No.13 of 2015 to set aside the exparte order dated 19.02.2015.

3.The petitioner filed counter affidavit and contended that she made arrangements to marry one Ramesh on 20.03.2015 and filed marriage invitation.

4.The learned Judge on verifying the Court records found that notice was not served on the respondent after case bundle was

received from the District Court, Thiruvannamalai and the petitioner has made arrangements for marriage within a month of exparte order which is not permissible under law, allowed the application setting aside the exparte order.

5. Against the said order dated 10.07.2015 made in I.A.No.13 of 2015 in H.M.O.P.No.74 of 2011, the present Civil Revision Petition is filed by the petitioner.

6. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

7. The learned counsel for the petitioner did not dispute the fact that notice was not served on the respondent after case bundle was received from the District Court, Thiruvannamalai. The learned Judge rectified the said irregularity committed by the Court and allowed the application. In the circumstances, there is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 10.07.2015 made in I.A.No.13 of 2015 in H.M.O.P.No.74 of 2011.

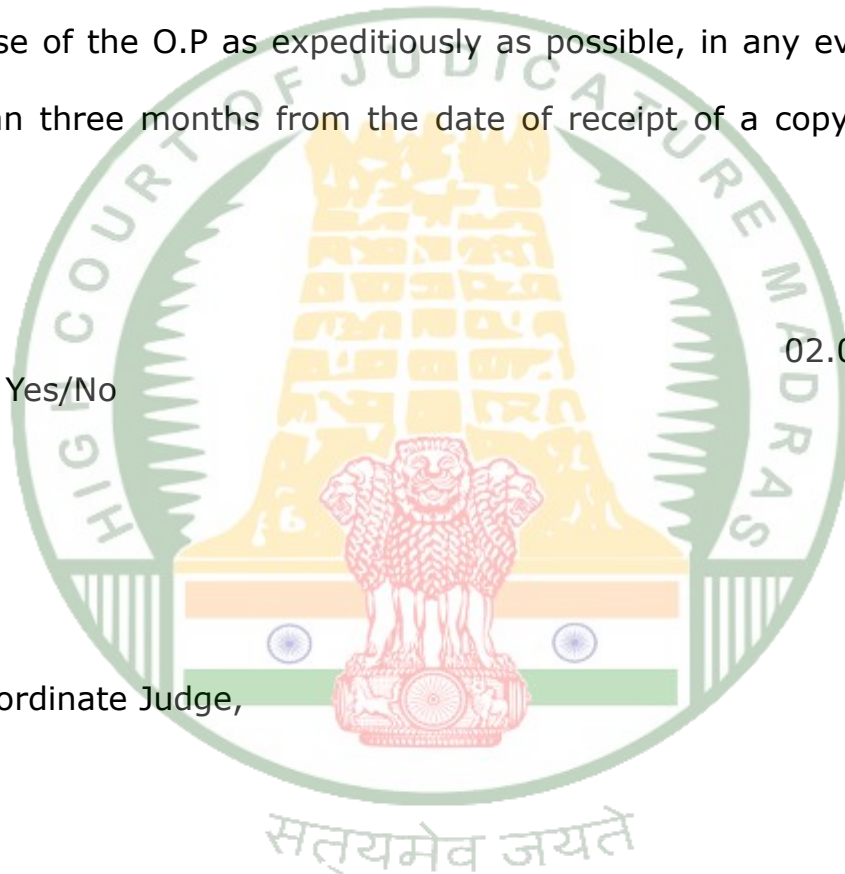
8.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. It is open to the parties to contest H.M.O.P.No.74 of 2011 on merits. Since the H.M.O.P is of the year 2011, the learned Judge is directed to dispose of the O.P as expeditiously as possible, in any event not later than three months from the date of receipt of a copy of this order.

02.03.2018

Index :: Yes/No
gsa

To

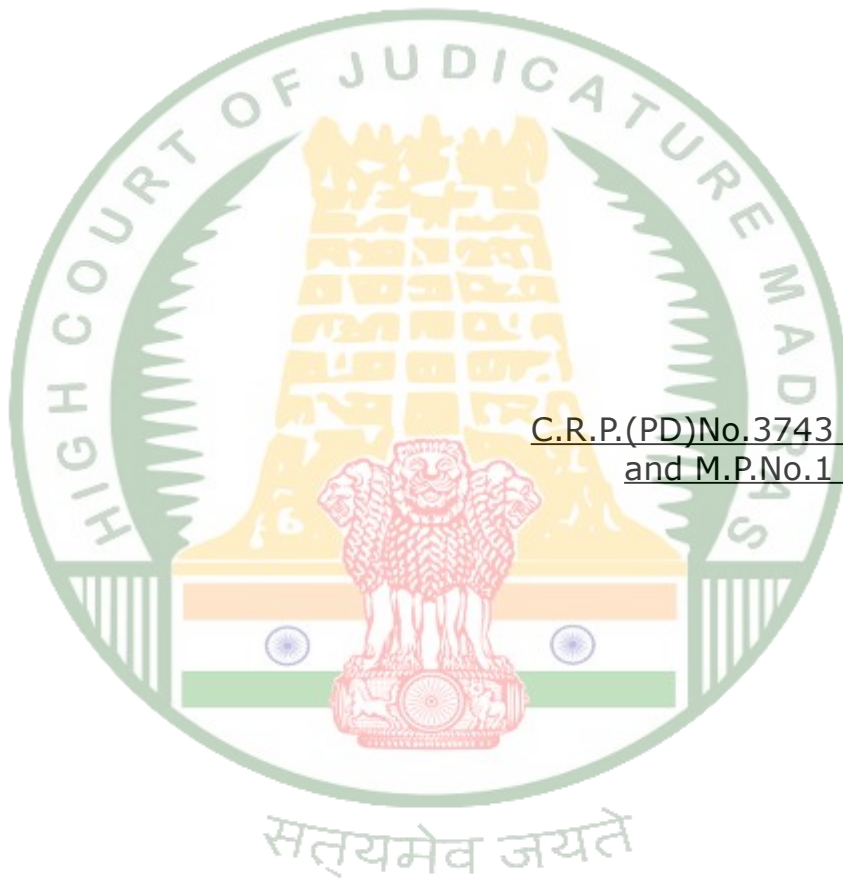
The Subordinate Judge,
Arni.



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V.M.VELUMANI, J.

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