



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2018

CORAM

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(PD) (MD)No.2297 of 2018

and

C.M.P(MD)No.10273 of 2018

Arvind.T

... Petitioner/1st petitioner

Vs.

Nithiananthi.T.

... Respondent/2nd petitioner

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, to issue a direction to the learned Family Court Judge, Kanyakumari District at Nagercoil to waive the cooling period of six months in respect of H.M.O.P.No.221 of 2018 and grant a decree of divorce forthwith as prayed for therein to the petitioner.

For Petitioner : Mr.N.Dilip Kumar

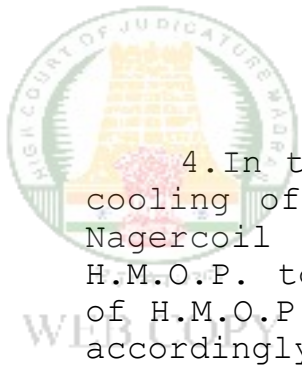
For Respondent : M/s.L.Victoria Gowri

ORDER

The petitioner and the respondent in the C.R.P. had married each other on 29.10.2012 at Nagercoil. Due to irretrievable break down of relationship between them, they want to dissolve their marriage by mutual consent. Therefore, they have filed a petition under Section 13(B) of Hindu Marriage Act.

2.It is not as if the parties herein have knocked the doors of the Court for the first time and straight away demanded waiving of the cooling period of six months. The parties have been living apart for more than five years. A mere look at the memorandum of compromise arrived at between the parties indicates that there have been as many as four proceedings were filed and contested. In the circumstance, the parties are justified in taking a stand that making them wait for six more months to dissolve the marital tie would only prolong their agony.

3.The Hon'ble Supreme Court of India in the decision reported in (2017) 8 SSC 746 Amardeep Singh Vs. Harveen Kaur held that the cooling off period stipulated in Section 13(B) (2) of Hindu Marriage Act is not mandatory and that in appropriate cases it can be waived.



4. In the present case, a case has been made out for waiving the cooling off period. Accordingly, the learned Family Court Judge, Nagercoil Kanyakumari is directed to advance the hearing of H.M.O.P. to an earlier date, not later than 31.10.2018 and dispose of H.M.O.P. No. 221 of 2018. Civil Revision Petition is allowed, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Judge,
Family Court,
Kanyakumari District at Nagercoil.

Copy To:

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai. **(2 copies)**

+ 1 CC TO Mr.N.Dilip Kumar , ADVOCATE IN SR No. 90665.

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