



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE **M.V.MURALIDARAN**

CRP (MD).No. 1002 of 2018

B. Deepan .. Petitioner/Petitioner

Vs.

A. Sharmila .. Respondent/Defendant

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to call for the records relating to the unnumbered H.M.O.P. No.----of 2018, on the file of the Judge, Family Court, Karur and directing the Court below to take the H.M.O.P on file and number the same by allowing this Civil Revision Petition.

For Petitioner : Mr. G. Thalaimutharasu

O R D E R

The Civil Revision Petition has been filed by the Revision Petitioner, to call for the records relating to the unnumbered H.M.O.P. No.----of 2018, on the file of the Judge, Family Court, Karur and directing the Court below, to take the H.M.O.P on file and number the same.

2. The petitioner and the respondent are husband and wife and the petitioner has filed the unnumbered H.M.O.P. No.---of 2018 on the file of the learned Judge, Family Court, Karur, seeking divorce on the ground of cruelty. The above said unnumbered H.M.O.P. No.---of 2018 was returned by the trial Court, questioning the maintainability of the petition by citing the decision rendered by the Hon'ble Supreme Court. Hence, the revision petitioner has come forward to file this Civil Revision Petition.

3. Heard the learned counsel appearing for the revision petitioner and perused the materials available on record.

4. On a perusal of the record, it is clear that in the unnumbered H.M.O.P. No.---of 2018, there is an endorsement made by the learned Judge, Family Court, Karur by stating as follows:

"As per the Hon'ble Supreme Court's precedents Resorting to Legal remedy is not a cruelty. How this Petition is maintainable?. Hence returned "

The trial Court without mentioning the specific decision rendered by the Hon'ble Supreme Court regarding the legal remedy which is not



available on the ground of cruelty, has simply returned the petition, without numbering the same by stating as above. Hence, this Court is inclined to interfere with the order passed by the trial Court. Accordingly, the same is set aside.

5. In the result,

(i). this Civil Revision Petition No.1002 of 2018 is disposed of.

(ii). the learned Judge, Family Court, Karur is directed to number the unnumbered H.M.O.P. No.---- of 2018 within a period of one week from the date of copy of receipt of this order and dispose the same on merits and in accordance with law. No costs.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

The Judge,
Family Court,
Karur.

CRP (PD) (MD) .No.1002 of 2018
28.04.2018

KSA
RAM/SV MMS/SAR 4/30.05.2018