



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2018

CORAM:

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

C.R.P(MD)No.1648 of 2017 (PD)
and
CMP(MD) No.9211 of 2017

Manimaran ...Petitioner/ Respondent

Vs.

Rathikani ...Respondent/Petitioner

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to strike off the petition in HMOP.No.79 of 2017 on the file of the Subordinate Court, Srivilliputtur.

For Petitioner : Mr.M.Thirunavukkarasu
For Respondent : Mr.P.Subbaraj

ORDER

This Civil Revision Petition has been filed to strike off the petition in HMOP.No.79 of 2017 on the file of the Subordinate Court, Srivilliputtur.

2. The revision petitioner is the respondent in HMOP.No.79 of 2017, which was filed by the respondent for restitution of conjugal rights. The present revision petition has been filed to strike off the restitution of conjugal right petition in HMOP.No.79 of 2017.

3. The sum and substance of the arguments put forth by the learned Counsel appearing for the petitioner are as follows:

3.1. The learned Counsel for the revision petitioner would submit that the petitioner has already filed a petition for restitution of conjugal rights in HMOP No.43 of 2010, in which the respondent remained ex-parte and an ex-parte decree was passed on 29.10.2010. Subsequently, the petitioner issued advocate notice for reunion, but the respondent was not willing for reunion. Thereafter, the petitioner filed a petition in HMOP No.123 of 2011 for divorce, which was later transferred and renumbered as HMOP No.123 of 2012. The respondent/wife filed I.A.No.12 of 2012 for interim maintenance and the same was allowed on 09.03.2012.



Thereafter, the respondent/wife has filed I.A.No.90 of 2012 in HMOP.No.43 of 2010 to condone the delay of 374 days in filing the petition to set aside the ex-parte decree.

3.2. In the mean time, the petitioner/husband filed CRP (MD) Nos.129 and 130 of 2015 seeking a direction for early disposal of the HMOP.No.147 of 2012 and I.A.No.90 of 2012 in HMOP No.43 of 2010 and this Court directed the Trial Judge to dispose of the same on or before 30.03.2015. Thereafter, the respondent has filed I.A.No.83 of 2015 for enhancement of maintenance amount and the same was partly allowed. Again she filed I.A.No.32 of 2016 for grant of educational expenses and the same was dismissed. Challenging the same, the respondent has filed CRP (MD) Nos.1447 of 2015 and 44 of 2016, before this Court and this Court dismissed CRP No.1447 of 2015 and CRP(MD) No.44 of 2016 is partly allowed. Again the petitioner has filed CRP No.2551 of 2016 for early disposal and this Court directed the Trial Judge to dispose of the HMOP.No.147 of 2017 on or before 30.04.2017. Again the respondent has filed an I.A.Nos 75 and 76 of 2017 seeking to pay the arrears of maintenance amount and school fees for the academic year and enhancement of maintenance to the tune of Rs.5,000/-.

3.3. Due to non-appearance of the respondent exparte decree was passed on 23.01.2017 in HMOP No.147 of 2012. Again the respondent filed HMOP No.79 of 2017 for restitution of conjugal rights and against which the petitioner came before this Court to strike off the petition as already there was an order of restitution of conjugal rights as early as on 29.10.2010.

4. This Court directed both the parties to appear before this Court for mediation. Pursuant to the same, both the parties appeared before this Court and mediation took place, but, it ended in failure.

5. Considering the facts and circumstances of the case, this Court is of the view that this petition has to be allowed, in view of the order passed by the learned Trial Judge in HMOP No.147 of 2012 which has been disposed of on merits. Due to the disposal of the divorce application in favour of the petitioner, the respondent has to file a separate maintenance case for her son's maintenance. This Court feels that the minor boy needs love and care of both the father and mother. But unfortunately things do not workout and the effort taken by this Court for reuniting the parties did not succeed.

6. Considering the facts and circumstances of the case, in my considered opinion ends of justice would be met if a direction is given to the petitioner to pay maintenance to his wife. The duty cast upon the father. Considering the entire efforts taken place in front of this Court, the petitioner is directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only)



towards maintenance to his son, from the date of disposal of the Civil Revision Petition, till he attains majority. The petitioner shall deposit the maintenance amount either in Bank account of the respondent before 5th of every English calendar month or by way of demand draft in favour of the respondent and the respondent shall use the same towards the welfare of her son. The respondent is at liberty to claim maintenance for herself and it is made clear that this order will not stand as a barrier for claiming maintenance in accordance with law.

7. In the result, the petition in H.M.O.P.No.79 of 2017 on the file of the Subordinate Court, Srivilliputtur is struck off and this Civil Revision Petition stands allowed in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Court,
Srivilliputtur.

+1cc to Mr.M.Thirunavukkarasu, Advocate Sr.No.55171
+1cc to Mr.P.Subbaraj, Advocate Sr.No.55347

RM

VB/JC/SAR4/05/04/2018/3P/4C

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