



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM:

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THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P (PD) (MD) No.1904 of 2017

Rajaneesh : Petitioner

-Vs-

Vinitha : Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the order dated 18.03.2017, passed in unnumbered HMOP case in CF.No.582 of 2017 on the file of the Principal Subordinate Judge, Nagercoil.

For Petitioner : Mr.D.Venkatesh

For respondents : Mr.S.Palanivelayutham

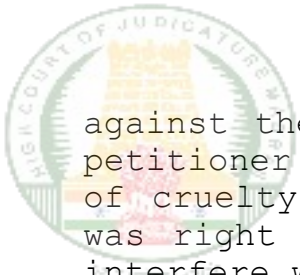
O R D E R

This Civil Revision Petition has been filed against the order dated 18.03.2017, passed in unnumbered HMOP case in CF.No.582 of 2017 on the file of the learned Principal Subordinate Judge, Nagercoil.

2. The learned counsel appearing for the petitioner submitted that the revision petitioner herein is the husband and the respondent is the wife. The case of the petitioner is that though he has filed unnumbered HMOP in C.F.No.582 of 2017, before the learned Principal Subordinate Judge, Nagercoil, under Section 13(1) (i.a) (i-b) of the Hindu Marriage Act, 1955, the learned Judge has rejected the said petition on the ground that earlier the petition filed by the petitioner for divorce on the ground of cruelty was dismissed after full-fledged trial, aggrieved by which, the petitioner has filed CMA.No. 13 of 2012 and the same has also been dismissed and now, the petitioner has filed the present petition on the same cause of action and hence, the petition is not maintainable. Aggrieved over the same, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel appearing for the respondent submitted that the petitioner has filed the above unnumbered HMOP on the ground of cruelty and desertion and the same is not proper and hence, the said HMOP should not be numbered.

4. On a perusal of the materials available on record, it is seen that the petitioner earlier filed a petition for divorce on the ground of cruelty and the same was dismissed and the appeal filed



against the said order was also dismissed. Subsequent to that, the petitioner filed the present unnumbered H.M.O.P., on the same ground of cruelty and desertion. Therefore, the learned Subordinate Judge was right in dismissing the petition and there is no necessity to interfere with the same.

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5. At this juncture, the learned counsel appearing for the petitioner submitted that the petitioner has now restricted his prayer only on the ground of desertion.

6. In view of the submission so made, this Court is inclined to set aside the order passed in unnumbered HMOP case in CF.No.582 of 2017, on the file of the learned Principal Subordinate Judge, Nagercoil.

7. In the result,

(a) This Civil Revision Petition is allowed by setting aside the order passed in un-numbered HMOP case in CF.No.582 of 2017, on the file of the learned Principal Subordinate Judge, Nagercoil.

(b) The learned Principal Subordinate Judge, Nagercoil is directed to number the HMOP on the ground of desertion alone, within a period of two weeks from the date of receipt of a copy of this order, if it is, otherwise, in order and after numbering the said HMOP, dispose of the same, within a period of four months thereafter, after issuing notice to the respondent/wife.

(d) The respondent is given liberty to make her objection by way of filing counter at the time of hearing of the said HMOP.

No costs.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge, Nagercoil.

Copy To:-

The Section Officer, E.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)
(to return the original papers)

+ 1 CC TO Mr.M.P.SENTHIL, ADVOCATE IN SR No. 64595

+ 1 CC TO Mr.S.PALANI VELAYUTHAM, ADVOCATE IN SR No. 64877

TRP

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