



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P (MD) .No.2110 of 2017

and

CMP (MD) .No.10503 of 2017

Keerthika ... Petitioner/Petitioner/Respondent
Vs.
R. Mahadev ... Respondent/Respondent/Petitioner

Prayer: This Civil Revision Petition is filed under Section 115 CPC against the fair order dated 16.08.2017 made in I.A.No.301 of 2016 in HMOP.No.343 of 2015, on the file of the Family Court, Thiruchirappalli.

For Petitioner ... Mr.A.P. Dhas
For respondent ... M/s. P. Ganapathy Subramanian

ORDER

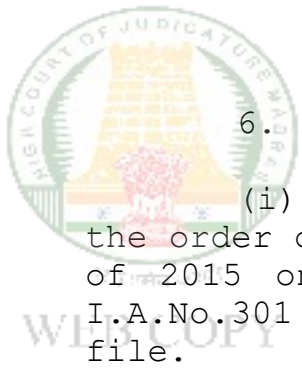
This Civil Revision Petition is filed against the order dated, 16.08.2017 made in I.A.No.301 of 2016 in HMOP.No.343 of 2015, on the file of the Family Court, Thiruchirappalli.

2. The revision petitioner herein is the wife and the respondent is husband. The respondent has filed HMOP.No.343 of 2013 on the file of the Sub Court, Thiruchirappalli and in the said HMOP the petitioner herein was set ex parte on 15.09.2016 and thereafter, she has filed I.A.No.301 of 2016 in HMOP.No.343 of 2015, to set aside the ex parte order and the same was dismissed for default. Aggrieved over the same, the petitioner herein has filed the present Civil Revision Petition.

3. The learned counsel appearing for the petitioner submitted that since the petitioner's son was suffering from fever, the petitioner has filed her counter affidavit belatedly. He further submitted that since it is a matrimonial dispute between the husband and wife, the learned Judge ought to have considered the application filed by the petitioner. But, the learned Judge simply dismissed application filed under Order 9 Rule 7 C.P.C., without giving any valid reason.

4. I have heard the learned counsel appearing on either side and perused the materials available on record.

5. Considering the facts and circumstances of the case and also considering the fact that it is a matrimonial dispute between the husband and wife, this Court is inclined to allow this Civil Revision Petition.



6. In the result,

(i) This Civil Revision Petition is allowed by setting aside the order dated 16.08.2017 made in I.A.No.301 of 2016 in HMOP.No.343 of 2015 on the file of the Family Court, Thiruchirappalli and I.A.No.301 of 2016 is allowed and HMOP.No.343 of 2015 is restored to file.

(ii) The petitioner is directed to file her counter within a week from the date of receipt of a copy of this order.

(iii) On filing counter, the learned Judge, Family Court, Thiruchirappalli is directed to dispose of the said HMOP.No.343 of 2015 within a period of two months, thereafter.

(iv) No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Judge, Family Court, Thiruchirappalli.

+1cc to Mr.A.P. Dhas, Advocate Sr.No.73198

TRP

VB/SKN/SAR3/24.08.2018/2P/3C

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