



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.01.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
C.R.P. (PD) (MD) Nos.649 & 650 of 2017
and
C.M.P. (MD) No.2956 of 2017

Emaculate ... Petitioner in both cases
vs.

J.Thamburaj ... Respondent in both cases

COMMON PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the orders passed in I.A.Nos.205 & 204 of 2016, respectively, in I.D.O.P.No.37 of 2016 dated 27.12.2016 on the file of the Family Court, Trichy.

For Petitioner : Mr.S.Saravanamuthu
For Respondent : Mr.P.Babu
(In both cases)

COMMON ORDER

As the issue involved in both the cases is similar in nature, they are disposed of by this common order.

2. These Civil Revision Petitions have been filed to set aside the orders passed by the Family Court, Trichy in I.A.Nos.205 & 204 of 2016, respectively, in I.D.O.P.No.37 of 2016 dated 27.12.2016.

3. The facts of the case are that the respondent herein/husband has filed a petition in I.D.O.P.No.37 of 2016 on the file of the Family Court, Trichy seeking divorce. In the said I.D.O.P., the petitioner herein/wife has filed two interlocutory applications in I.A.Nos.205 & 204 of 2016, seeking interim maintenance to her/wife and the child. The said applications were dismissed by the Family Court on the ground that the petitioner has quoted wrong provisions of Act. Aggrieved thereby, the petitioner is before this Court.

4. Heard the learned Counsel appearing for both sides and perused the documents placed on record.

5. A perusal of the records would show that the petitioner herein has wrongly quoted the provisions of the Act in the said interlocutory applications and on that basis, both the applications were dismissed by the Family Court.



6. In my considered opinion, the learned Judge ought to have allowed the petitioner to correct the mistake and decide the matter on merits, but, the learned Judge has dismissed the applications on that ground.

7. Considering the facts and circumstances of the case, this Court is of the view that the impugned orders are liable to be set aside, because they are passed on the sole ground that the interlocutory applications were filed under wrong provisions.

8. In result, these petitions are allowed. The impugned orders dated 27.12.2016, passed by the Family Court, Trichy in I.A.Nos.205 & 204 of 2016, respectively, in I.D.O.P.No.37 of 2016 are set aside and the matter is remitted to the Family Court, Trichy for fresh consideration, who shall dispose of the case as expeditiously as possible. The petitioner is at liberty to correct the provisions in the said interlocutory applications. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

The Family Court,
Trichy.

+2cc to Mr.S.Saravanamuthu Advocate Sr.No.44707
+1cc to Mr.K.Rajeshwaran, Advocate Sr.No.44729

GK

VB/JC/SAR4/14.02.2018/2P/5C

**C.R.P. (PD) (MD) Nos. 649 & 650 of 2017
and
C.M.P. (MD) No. 2956 of 2017
29.01.2018**