



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (MD)Nos.1389 & 1390 of 2018 (PD)

WEB COPY

Muthukumar

... Petitioner in both cases

Vs.

Durga

... Respondent in both cases

Common Prayer : These Civil Revision Petitions are filed under Article 227 of the Constitution of India, to direct the lower court to number the recall petition in Misc case in IA.SR No.7609 of 2017 in HMOP.No.93 of 2011 and to number the restore petition in I.A.SR No.8759 of 2017 respectively, on the file of the Principal Sub Judge, Kumbakonam and dispose of the same on merits.

In both cases :

For Petitioner : Mr.P.Saravanakumar
for M/s.G.Rose Sweety

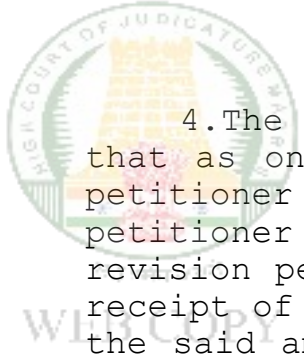
For Respondent : Mr.M.R.S.Prabhu

COMMON ORDER

The revision petitioner is the husband. He filed HMOP.No.93 of 2011 before the Principal Sub Court at Kumbakonam. The respondent obtained an order of payment for interim maintenance. The revision petitioner did not honour the said order. Hence, the arrears payable by the revision petitioner mounted. Since the revision petitioner did not comply with the order directing him to pay interim maintenance, the court below passed a conditional order on 28.03.2017 and since the condition was not complied with, dismissed the HMOP itself on 24.04.2017. Seeking recall of the conditional order, the revision petitioner filed Misc.case in I.A.SR No.7609 of 2017. Seeking restoration of the main HMOP, another IA was taken out in I.A.SR No.8759 of 2017. Both these applications were returned. Questioning the returning of these interim applications, these two Civil Revision Petitions have been filed.

2.Heard the learned counsel on either side.

3.The court below was justified in non suiting the revision petitioner on the ground of non compliance of the order directing him to pay interim maintenance to the respondent/wife. However, this Court is of the view that if the revision petitioner comes forward to comply with the said direction, he can be given one more opportunity to prosecute his HMOP.



4.The learned counsel appearing for the respondent submitted that as on 15.08.2017 the arrears amount payable by the revision petitioner comes to Rs.2,64,000/-. The learned counsel for the petitioner submitted that the said amount shall be paid by the revision petitioner within a period of eight weeks from the date of receipt of a copy of this order. If the revision petitioner deposits the said amount before the court below within the said period, the court below shall restore HMOP No.93 of 2011 and dispose of the same in accordance with law within a period of four months thereafter.

5.Subject to the above said condition, these Civil Revision Petitions stand allowed. If the revision petitioner does not honour the undertaking given before this Court, both the Civil Revision Petitions would stand automatically dismissed. It is made clear that no application will be entertained seeking extension of time. No costs.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Principal Sub Judge, Kumbakonam

+1CC to Mr.M.R.S.Prabhu, Advocate, SR.No.78697

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1390 of 2018 (PD)
13.08.2018

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