



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (NPD) (MD) No. 2430 of 2016

and

C.M.P. (MD) No. 11442 of 2016

AL.Ramanathan

... Revision Petitioner/Defendant

Vs.

- 1.AL.Kalyani
- 2.Ramanathan
- 3.Meenakshi sundaram
- 4.Abiramavalli (minor)

Minor 4th respondent through her
mother and next friend namely
1st respondent herein)

... Respondents/Plaintiffs

PRAYER: Petition filed under Section 115 of the Civil Procedure Code to set aside the fair and decreetal order dated 11.03.2016 passed in E.A.No.135 of 2011 in E.P.No.38 of 2006 in O.S.No.130 of 1998 on the file of Subordinate Judge, Devakottai and allow this Civil Revision Petition.

For petitioner : Mr.D.Pannerselvam

For Respondents 1 & 2 : A.L.Kannan

For R3 : No appearance

ORDER

The revision petitioner is the husband of the first respondent Kalyani and father of other respondents. The respondents herein filed O.S.No.130 of 1998 as against the revision petitioner and obtained a decree as early as on 27.10.2003. The said decree has become final. It was put to execution by filing E.P.No.38 of 2006. In the said E.P., the revision petitioner filed E.A.No.135 of 2011 under Section 47 of CPC for discharging himself from the decreetal obligations. The Court below by order dated 11.03.2016 dismissed the E.A. The said rejection order is challenged in this Civil Revision Petition.



2.The learned counsel for the revision petitioner submitted that after passing of the decree in question, the revision petitioner applied for dissolving his marriage with the first respondent and that the same was also allowed.

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3.The divorce order granted in favour of the revision petitioner has become final, it having been confirmed in the first appeal as well as the second appeal. Therefore, the learned counsel would submit that the revision petitioner is entitled to be discharged from the decretal obligations.

4.I am unable to agree with the said submission. Even a divorced wife is also entitled to maintenance. So long as the decree is holding good, the question of seeking discharge from the decretal obligation, on the strength of certain subsequent developments, will not arise. As rightly pointed out by the learned counsel for the respondent, the subsequent developments namely, the divorce, has no bearing or relevance on the decree in question.

5.This Court went through the contents of the decree. It is for return of the sridhana articles and for arrears of maintenance amount. Therefore, the Court below rightly dismissed the E.A., filed by the revision petitioner herein. There is no merit in this case. Accordingly, this Civil Revision Petition is dismissed.

6.It is submitted that the E.P., filed by the respondents was dismissed for default on 22.02.2018 and that an application for restoration has been filed. The executing Court is directed to restore the said E.P., after allowing the other applications and thereafter proceed in accordance with law. The entire proceedings shall be concluded within a period of three months. The defenses of the revision petitioner are otherwise left open.

7.Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS-I)



To:

1. Subordinate Judge,
Devakottai.

+1 CC To MR.A.L.KANNAN, Advocate SR. NO.87614

+1 CC To MR.S.M.S.JOHNNY BASHA, Advocate SR. NO. 87069

ORDER MADE IN
C.R.P. (NPD) (MD) .No.2430 of 2016
and
C.M.P. (MD) No.11442 of 2016

PNN

TR/SKN/SAR-I (29.10.2018) 3P 4C