



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) .No.868 of 2016

and

C.M.P. (MD) No.4456 of 2016

Shanthi

... Revision Petitioner/Petitioner/Petitioner

Vs.

Subramanian

... Respondent/Respondent/Respondent

PRAYER : Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 03.07.2015 made in I.A.No.229 of 2012 in H.M.O.P.No.133 of 2010 on the file of the Sub-Judge, Pudukottai and allow the Civil Revision Petition.

For petitioner : Mr.P.Arunjayatram

For Respondent: Mr.D.Ramesh Kumar

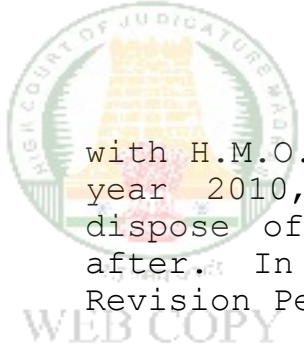
ORDER

The petitioner got married to the respondent on 18.10.1996. The petitioner herein filed H.M.O.P.No.133 of 2010 before the Sub Court, Pudukkottai, seeking dissolution of said marriage. In the said H.M.O.P., the respondent herein raised a counter claim for restitution of conjugal rights. To reject the same, the petitioner herein filed I.A.No.229 of 2012. The said I.A., was returned by the Court below by order dated 03.07.2015. The same is challenged in this Civil Revision Petition.

2.Heard the learned counsel on either side.

3.The question of filing a counter claim in a matrimonial petition, does not arise. If the respondent so desires, it is open to him to file an independent petition under Section 9 of Hindu Marriage Act, for restitution of conjugal rights. Question of raising a cross application in the H.M.O.P., filed by the revision petitioner will not arise.

4.The respondent is at liberty to file an independent H.M.O.P., against the revision petitioner herein. If the same is filed within a period of two weeks from (*)the date of receipt of this order copy the same shall be numbered and jointly tried along



with H.M.O.P.No.133 of 2010. Since, the proceedings date back to the year 2010, the learned Sub Judge, Pudukkottai, is directed to dispose of the proceedings within a period of four months there after. In this view of the matter, the order impugned in this Civil Revision Petition is set aside.

5. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-I)
(14/11/2018)

// True Copy //

Sub Assistant Registrar (CS-II)

*Corrected as per original order dated 05/09/2018 in CRP (PD) (MD) NO .868 of 2016
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(*) to be substituted the order already despatched on 20.09.2018
To:

1. The Sub Judge,
Pudukkottai.

+1cc to Mr.P.ArunJayatram, Advocate SR No.82784.
+1cc to Mr.D.Rameshkumar, Advocate SR No.82421

C.R.P. (PD) (MD) .No.868 of 2016

NM/SV/SAR 4/20.09.18/2P/4C
TR/SV/SAR-II(20.11.2018) 3P 4C