



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) No.2558 of 2018

and

C.M.P (MD) No.11255 of 2018

M.Jophlin Stephila

... Petitioner

vs.

Augustin Gladson

... Respondent

Petition filed under Article 227 of the Constitution of India, against the order dated 25.08.2018 passed in I.A.No.644/2018 in I.A.No.578/2018 in IDOP.No.20/2018 on the file of Principal District Judge, Tiruchirappalli.

For Petitioner : Mrs.T.Banumathy
For Respondent : Mr.V.Karuna

ORDER

The petitioner and respondent are husband and wife. The respondent/wife filed IDOP.No.20/2018 before the Principal District Court, Tiruchirappalli, seeking divorce, wherein, the petitioner/husband was set exparte. In order to set aside the exparte order, the petitioner filed I.A.No.578/2018, in which, a conditional order was passed directing the petitioner to pay a sum of Rs.500/- on or before 14.08.2018, but the petitioner failed to comply with the said conditional order within the stipulated time. Therefore, the petitioner filed I.A.No.644/2018 seeking extension of time to comply with the conditional order which was dismissed against which, the present revision petition has been filed.

2.Learned counsel for the respondent submits that the respondent is not having serious objection in allowing the present petition if a direction is issued to the Court below to dispose of IDOP.No.20/2018 within a time frame.

3.While directing to pay a sum of Rs.500/- on or before 14.08.2018, there was a default clause in the order passed by the learned Judge, by which, if the petitioner fails to comply with the order within the stipulated time, the petition shall stand automatically dismissed. Technically speaking, the petitioner's petition to set aside the exparte order is not on file and therefore, the petitioner ought to have filed restoration petition and sought for extension of time to pay the cost. This is the matrimonial issue and therefore, in my considered opinion, one more



opportunity may be granted to the petitioner.

4. Accordingly, the order dated 25.08.2018 passed in I.A.No.644/2018 in I.A.No.578/2018 in IDOP.No.20/2018 on the file of Principal District Judge, Tiruchirappalli, is set aside and the petitioner shall file an application for restoring the set aside application within one week from the date of receipt of a copy of this order and the petitioner shall also pay the cost as ordered by the learned Judge and on payment of the cost, the set aside petition shall be restored and IDOP.No.20/2018 be disposed of within a period of six months from the date of receipt of a copy of this order.

With the above direction, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The Principal District Judge,
Tiruchirappalli.

- 1 CC TO Mr.V.KARUNA , ADVOCATE IN SR No.98973.
- + 1 CC TO Ms.T.BANUMATHY , ADVOCATE IN SR No.99012.
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