



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRP. (MD) .No.614 of 2012 (PD)

and

M.P. (MD) .No.1 of 2012

Dhanalakshmi

...Petitioner/Respondent/Respondent

Vs.

Anand @ Arumugam

...Respondent/Petitioner/Petitioner

PRAYER: This Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.68 of 2010 in H.M.O.P.NO.32 of 2009 dated 15.07.2010 pending before the Subordinate Court, Pudukottai and to allow this Civil Revision Petition.

For Petitioner : Mr.G.S.Asok Adithyan

For Respondent : Mr.N.Mohan

O R D E R

This Civil Revision Petition has been filed against the order passed by the Court below in I.A.No.98 of 2010, which was filed by the petitioner to set aside the exparte order passed in I.A.No.68 of 2010, dated 15.07.2010, wherein, the Court below allowed the amendment petition filed by the respondent.

2.The respondent has filed H.M.O.P.No.32 of 2009 against the petitioner seeking for the dissolution of marriage on the ground of cruelty. When this petition was pending, an amendment petition was filed by the respondent to add adultery as one more ground in the main petition. This petition was ordered exparte by an order dated 15.07.2010. Therefore, the petitioner filed an application to set aside the exparte order and to decide the amendment petition on merits. This was dismissed by the Court below on the ground that amendment has already been carried out before the Court below.

3.The learned counsel appearing for the petitioner submitted that the petition was allowed by an order dated 15.07.2010 and the amendment petition was not carried out on time. The petitioner filed I.A.No.98 of 2010 to set aside the exparte order even before the amendment was carried out. While this petition was pending, the respondent managed to stealthily carry out the amendment much after the prescribed time and thereby,



denied the opportunity to the petitioner to contest the application filed in I.A.No.98 of 2010 on merits. The learned counsel further submitted that the Court below even without being sensitive to the fraud that was played by the respondent, proceeded to dismiss the application only on the ground that the amendment has been carried out.

4. There is no representation for the respondent.

5. On going through the entire records and also the nature of grievance that has been expressed by the petitioner, this Court is of the considered view that an opportunity must be given to the petitioner in the amendment petition filed by the respondent in I.A.No.68 of 2010. This is more so since the respondent wants to add the ground of adultery in the petition.

6. In view of the above, the order passed by the Court below in I.A.No.68 of 2010 dated 15.07.2010, is hereby set aside. This Civil Revision Petition is accordingly allowed and the Court below is directed to hear the application filed in I.A.No.68 of 2010 afresh by giving an opportunity to the petitioner on merits and in accordance with law. The application shall be decided within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)

tsg

To

1. The Subordinate Judge, Pudukottai.

2. The Record Keeper, VR Section-2 copies
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-88046[F] dated
20/09/2019)

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KM/ (15.10.2019) 2P 5C