



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

WEB COPY

C.R.P(MD)No.1350 of 2019 and
CMP(MD).No. 7285 of 2019

S. Saravanakumar

... Petitioner

Vs.

U. Divya Gayathri

... Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India against the fair and decreetal order passed in I.A.No. 173 of 2019 in HMOP.No.112 of 2017, dated 06.07.2019 on the file of the Family Court, Dindigul.

For Petitioner : Mr.A. Arul Jenifer

For Respondent : Mr.K. Maharajan

ORDER

This Civil Revision Petition has been filed against the dismissal of I.A.No. 173 of 2019, which has been filed by the petitioner for setting aside the ex parte order dated 18.02.2019, passed in HMOP.No. 112 of 2017, pending on the file of Family Court, Dindigul.

2. The learned counsel appearing for the revision petitioner submitted that due to pressure of work, the revision petitioner was unable to appear when the matter was called on 18.02.2019. No doubt, the presence of the petitioner is necessary for the purpose of cross examination of PW.1, but, without considering the nature of work of the revision petitioner in the Bank, the Court below had rejected the application filed by the revision petitioner to set aside the ex parte order, dated 18.02.2019.

3. On the other hand, the learned counsel appearing for the respondent contended that the revision petitioner has not shown any sufficient cause for non appearance before the Court below on 18.02.2019. The petitioner could have very well applied for leave and appeared before the Court below. If at all the office rejected the leave, he could have filed the same as the proof. But, he has not filed the said proof. According to the respondent, the Court below rightly dismissed the petition for setting aside the ex parte order.



4. I have heard the learned counsel appearing on either side and perused the materials available on record.

5. The revision petitioner, who is the husband of the respondent, is working as a Branch Manager in a Bank. Further he is very much interested for reunion with his wife viz., the respondent herein and he expressed his difficulties for non appearance. According to the petitioner, he was not able to appear, before the Court below, as he is in a position of Branch Manager and also doing service to the public. That apart, he was in a position to achieve earlier Target and therefore, there was a pressure in completing the work. Further, in order to maintain his wife, he has been paying a sum of Rs. 25,000/- per month as maintenance without any default.

6. Such being the case, this Court is of the view that the reason stated by the revision petitioner could have been accepted. The Court below has failed to consider the genuineness of the reasons stated by the revision petitioner herein. Appreciating the fact that the petitioner has been paying maintenance of Rs. 25,000/- without default to the respondent and also expressed his willingness for reunion with his wife, the ex parte order passed by the Court below in I.A.No. 173 of 2019 is set aside and accordingly, this Civil Revision Petition is allowed in the interest of justice.

7. The Court below is directed to complete the examination of witness within a period of one month from the date of receipt of a copy of this order and thereafter, pass final orders in HMOP.No. 112 of 2017, within a period of two months. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

trp
To

The Family Court, Dindigul.

+1 CC to M/s.K.MAHARAJAN, Advocate (SR-87137[F] dated 17/09/2019)
+1 CC to M/s.A.ARUL JENIFER, Advocate (SR-87524[F] dated 18/09/2019)

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