



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.R.P. (MD)No.1717 of 2019

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G.Robi

... Petitioner

Vs.

Hema Merlin

... Respondent

PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the order passed in unnumbered I.A.No._ of 2019 in IDOP No.354 of 2017 dated 22.07.2019 by the Additional District and Sessions Judge (Fast Track Court), Kanyakumari at Nagercoil.

For Petitioner : Mr.S.C.Herold Singh

O R D E R

This Civil Revision petition has been filed to challenge the order passed in unnumbered I.A. in I.D.O.P.No.354 of 2017 dated 22.07.2019 by the Additional District and Sessions Judge (Fast Track Court), Kanyakumari at Nagercoil.

2.The revision petitioner has filed an application to condone the delay 209 days in filing a review application. However, without ordering notice, the Court below passed an order to reject the said application. The petitioner is the respondent in the I.D.O.P. and after elaborate hearing on both sides an order has been passed on merits on 05.10.2018 by the court below. In order to review such a non speaking order, the petitioner has filed a review application with the condone delay application. Without numbering the said application, the court below has rejected the unnumbered I.A.

4.Heard the learned counsel appearing for the petitioner.

5.The Court below passed the order without numbering I.A. The main contention of the petitioner is that he is receiving only a sum of Rs.16,000/- by way of pension, whereas, the court below has ordered to pay maintenance at Rs.15,000/-. The court below wrongly recorded as if, the petitioner has accepted for payment of maintenance at Rs.15,000/-. However, the petitioner did not give consent for paying such amount. When such being the case, the court below ought to have numbered the application and decide the matter on merits by taking into consideration of the fact that the petitioner is not capable to pay a sum of Rs.15,000/- as maintenance.



6.In view of the above, this court directs the Additional District and Sessions Judge (Fast Track Court), Kanyakumari at Nagercoil number the Interlocutory Application and dispose of the same by giving opportunity to both sides.

7.This Civil Revision petition is disposed of accordingly. No costs.

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Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar(CS)

nbj

To

The Additional District and Sessions Judge
(Fast Track Court),
Kanyakumari at Nagercoil.

+1 CC to Mr.S.C.HEROLD SINGH, Advocate (SR-90320[F] dated 30/09/2019)

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MK (27.11.2019) 2P 3C