



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRP PD(MD)No.450 of 2020

1.R.Balaji

2.S.Swathi

... Petitioners

Vs.

Nil.

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order of the learned Family Judge, Theni in I.A.No.2/2020 in Original Petition No.220/2020 dated 02.03.2020.

For Petitioners : Mr.R.Venkatesan

ORDER

The petitioners had filed a petition for divorce under Section 13(B)(2) of the Hindu Marriage Act [herein after referred to as 'the Act']. Originally the petition was filed before the Sub Court, Theni. The Subordinate Judge, on receipt of this petition, as per Section 13(B)(2) of the Act, adjourned the matter to 30.04.2020 for appearance of the applicants. Subsequently, the case was transferred to the Family Court, Theni, before which, the petitioners filed a petition to waive the waiting period of six months and to grant the relief, on mutual consent. The Family Court, Theni has held that the Sub Court, Theni, while admitting the petition, already adjourned the matter to 30.04.2020 for appearance as per Section 13(B)(2) of the Act and thereby dismissed the petition. Challenging the order passed by the Family Court, Theni, the petitioner is before this Court.

2.The learned counsel for the petitioners would submit that the Family Court, Theni, misinterpreted Section 13(B)(2) of the Act and also not followed the decisions of the Hon'ble Supreme Court in the case of Amardeep Singh V. Harveen Kaur, reported in (2017) 8 SCC 746 and the order passed by this Court in CRP(PD)(MD)No.2655 of 2018, dated 29.11.2018 [Raji @ Jasmine Rani and another V. Nil]. The Hon'ble Apex Court in the decision cited supra has held that the parties need not wait for six months after filing the petition on mutual consent and if the guidelines given by the Hon'ble Supreme Court are satisfied, the Court can grant divorce, even without awaiting for the cooling-off period of six months as per Section 13 (B)(2) of the Act.



3. Heard the learned counsel for the petitioners and perused the entire materials available on record.

4. A careful reading of the order passed by the Court below and the materials placed before this Court and also the citations referred to by the learned counsel for the petitioners would go to show that the Hon'ble Apex Court has only given guidelines to decide the application filed under Section 13(B)(2) of the Act. The Hon'ble Supreme Court has also carefully worded that it has given discretionary power to the Family Courts while deciding the application filed under Section 13(B)(2) of the Act and in case circumstances warrant, the Court can order for divorce, even without awaiting for six months cooling-off period. In the case on hand, unless this Court finds any arbitrariness in the order passed by the Court below, it cannot interfere with the order as a matter of right and the petitioners are not entitled to get divorce as a matter of right. This Court does not find any arbitrariness in the order passed by the Family Court, Theni and therefore, this Court is not inclined to interfere with the discretionary power exercised by the Family Court, Theni. Further, the petitioners have to wait only upto 30.04.2020, which is the date fixed for their appearance. Under these circumstances, this Civil Revision Petition is liable to be dismissed and accordingly it is dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

mj

To

The Family Court, Theni

+1 CC to M/s.R.VENKATESAN, Advocate (SR-11906[F] dated 16/03/2020)

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