



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Seventh day of September Two Thousand and Twenty

PRESENT

The Hon'ble Mr.Justice M.SATHYANARAYANAN
and
The Hon'ble Mr.Justice P.RAJAMANICKAM

CMP(MD) Nos.4233 of 2020 and 5359 of 2019
IN
CMA(MD) No.450 of 2019

S.SHEEJU SELVA ROJI

... PETITIONER/RESPONDENT/RESPONDENT
IN CMP(MD)No.4233 of 2020 and
RESPONDENT/RESPONDENT
IN CMP(MD)No.5359 of 2019
IN CMA(MD) No.450 of 2019

Vs

JASMINE

... RESPONDENT/PETITIONER/APPELLANT
IN CMP(MD)No.4233 of 2020 and
PETITIONER/APPELLANT
IN CMP(MD)No.5359 of 2019
IN CMA(MD) No.450 of 2019

Prayer in CMP(MD) No.4233 of 2020 in CMA(MD) No.450 of 2019:

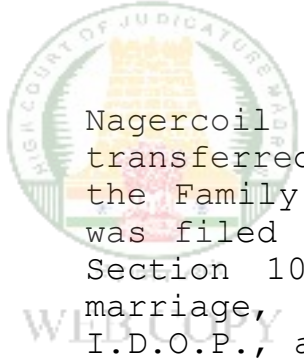
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to vacate for interim stay granted on 27.06.2019 in CMP(MD)No.5359 of 2019 in C.M.A(MD)No.450 of 2019.

Prayer in CMP(MD)No.5359/2019 in CMA(MD) No.450 of 2019 :

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an order of stay all further proceedings of the Fair order and Decretal order dated 27.03.2019 made in IDOP No.157 of 2018 on the file of the learned Family Court, Kanyakumari at Nagercoil, pending disposal of this CMA(MD) No.450 of 2019.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.D.GEETHA, Advocate for the petitioner in CMP(MD)No.4233 of 2020 and respondent in CMP(MD)No.5359 of 2019 and of M/s.M.MARIA VINOLA, Advocate on behalf of the Respondent in CMP(MD)No.4233 of 2020 and petitioner in CMP(MD)No.5359 of 2019, the court made the following order:-

(Order of the Court was made by M.SATHYANARAYANAN, J)



Nagercoil and after constitution of the family Court, it was transferred and renumbered as I.D.O.P.No.157 of 2018 on the file of the Family Court, Kanniyakumari at Nagercoil and the said petition was filed against the respondent / wife, praying for divorce under Section 10(1)(X) of the Indian Divorce Act, for dissolution of marriage, which came to be solemnized on 18.01.2002. The said I.D.O.P., after contest, came to be ordered, vide the impugned order dated 27.03.2019 and aggrieved by the same, the respondent / wife has filed the present Civil Miscellaneous Appeal and pending disposal of the appeal, she filed C.M.P(MD)No.5359 of 2019 alleging that by taking advantage of the decree for divorce, the respondent/husband is likely to get remarried. This Court had taken note of the said allegation and granted interim orders until further orders on 27.06.2019 and to vacate the stay granted, C.M.P(MD)No.4233 of 2020, is filed.

2. The learned counsel appearing for the petitioner / husband would submit that both the petitioner and the respondent are living away separately for nearly seven years and there is no possibility of reunion and the allegation as to the remarriage is *per se* false and prays for vacating the interim orders.

3. Per contra, the learned counsel appearing for the respondent/wife would draw the attention of this Court to Paragraph No.4 of the affidavit filed in support of C.M.P(MD)No.5359 of 2019 and would submit that in the light of the said apprehension only, interim order of stay was granted.

4. This Court has carefully considered the rival submissions made and also perused the materials placed before it.

5. In Paragraph No.7 of the affidavit filed in support of C.M.P(MD)No.4233 of 2020, the allegations made in Paragraph No.4 of the affidavit filed in support of the stay petition, have not been specifically denied / repudiated.

6. This Court by taking into consideration the above facts and circumstances, is of the view that interim order already granted shall continue till the disposal of the main Civil Miscellaneous Appeal.

7. The learned counsel appearing for the petitioner/husband prays for early disposal of the main Civil Miscellaneous Appeal and this Court heard the submissions of the learned counsel appearing for the respondent/wife/appellant also.

8. In the result, the interim order dated 27.06.2019 passed in C.M.P(MD)No.5359 of 2019, is made absolute and consequently, C.M.P(MD)No.4233 of 2020, is dismissed.



9. The Registry is directed to expedite the final disposal of the main Civil Miscellaneous Appeal and include it in the list of final hearing cases and call **on 14.10.2020**.

WEB COPY

sd/-
07/09/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

TO

THE JUDGE,
FAMILY COURT,
KANYAKUMARI DISTRICT AT NAGERCOIL.

ORDER IN
CMP(MD) Nos.4233 of 2020
and 5359 of 2019 IN
CMA(MD) No.450 of 2019
Date :07/09/2020

PM
TE/AKM/SAR-IV : 09/09/2020 : 3P/2C