

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2021

CORAM

THE HONOURABLE **MR.JUSTICE C.V.KARTHIKEYAN**

C.R.P(PD).No.104 of 2020

T.Hemachandran
S/o.Sri Thangavelu

... Petitioner

Vs.

R.Padmini

... Respondents

Prayer: Petition filed under Article 227 of Constitution of India, seeking to direct the learned Family Court Judge, Vellore, Vellore District to number the unnumbered I.A.SR.No.3879 of 2019 returned on 19.12.2019 in F.C.O.P.No.28 of 2019 on the file of the learned Family Judge, Vellore, Vellore District.

For Petitioner : Mr.Muheet rathore
for M/s.P.Subba Reddy

For Respondent : Mr.V.Lakshminarayanan

ORDER

(The case has been heard through video conference)

Revision has been filed questioning the order in I.A.SR.No.3879 of 2019 in F.C.O.P.No.28 of 2019, pending on the file of the Family Court, Vellore,

which order was dated 19.12.2019. As a matter of fact, there was an effective order based on which the said I.A.SR.No.3879 of 2019 was returned by the learned Family Court Judge, Vellore giving raise to filing of the present Revision Petition.

2.Revision Petitioner is the husband. An earlier, F.C.O.P.No.143 of 2014 had been filed before the Family Court, Vellore and by an order dated 05.11.2016 it had decreed and the divorce was granted on the ground of desertion. That order was taken in Appeal in C.M.A.No.2757 of 2016 and by judgment dated 17.04.2018, a Division Bench of this Court had thought it fit to interfere with the order granting divorce and had set aside the particular order. The matrimonial relationship therefore continued to subsist between the parties.

3.The petitioner herein appears to have filed a Special Leave Petition questioning the judgment of C.M.A.No.2757 of 2016 and I am informed that the Hon'ble Supreme Court has not granted any stay. In the meanwhile, the respondent herein / wife filed F.C.O.P.No.28 of 2019 seeking restitution of

conjugal rights. Her right to such restitution arises owing to the judgment of this Court in C.M.A.No.2757 of 2016 and also from the fact that the Hon'ble Supreme Court had not granted any stay of that particular judgment. The petitioner herein / husband thereafter filed I.A.SR.No.3879 of 2019 calling upon the Family Judge, Vellore not to proceed with F.C.O.P.No.28 of 2019 till judgment is delivered in the Special Leave Petition. I find that the learned Family Court Judge had returned the said application and I hold that the same had been done with a good reason.

4.The respondent herein had lawfully filed F.C.O.P.No.28 of 2019 and if the petitioner herein has any objection to it, he should join proceedings by filing counter to the said F.C.O.P.No.28 of 2019 petition and should not invite the learned Judge to pass orders on issues raised by filing I.A.SR.No.3879 of 2019 and calling upon the learned judge not to proceed with a judicial matter lawfully filed and to be heard by the Court. This is not a proper approach and the same cannot be encouraged by this Court. Rejection of the said I.A.SR.No.3879 of 2019 is correct and this Court is not inclined to interfere with the order passed. I am also informed that the

petitioner herein had filed counter to F.C.O.P.No.28 of 2019.

5.It is open for the learned Family Court Judge, Vellore to proceed further with F.C.O.P.No.28 of 2019 on the basis of the averment in the petition and averment in the counter affidavit. The learned Judge shall decide the manner in which she / he thinks it fit to proceed with the further progress of F.C.O.P.No.28 of 2019.

6.I hope directions are not required and in fact I am confident the learned Judge would be able to handle the issues.

7.This Civil Revision Petition is not required to be kept further on the Board of this Court.

7.Th Civil Revision Petition stands dismissed accordingly. No costs.

kas

The Family Court Judge
Vellore, Vellore District

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C.V.KARTHIKEYAN, J.
kas



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