

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 19.02.2021

CORAM:

THE HONOURABLE MRS. JUSTICE **V.BHAVANI SUBBAROYAN**

C.R.P. (PD) No.237 of 2021

Mrs.K.P.Savitha

...Petitioner

Vs

Mr.Elumalai

...Respondent

PRAAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the VI Additional Principal Judge, Family Court, Chennai, to dispose of the O.P.No.1888 of 2012 within a time frame.

For Petitioner : Mr.Vijayakumar

ORDER

The limited prayer sought for in the present civil revision petition is for a direction to the trial Court to dispose of O.P.No.1888 of 2012, within a limited time frame.

2. The petitioner herein had filed O.P.No.1888 of 2012, on the file of the learned VI Additional Principal Judge, Family Court, Chennai for dissolution of marriage solemnized between the petitioner and the respondent on 13.12.1999 at Gowri Kalyana Mandapam, Salem Road, Panruti, on the ground of cruelty under Section 13(1)(ia) of the Hindu Marriage Act.

3. The learned counsel for the petitioner submitted that the learned trial Judge ought to have disposed of the O.P. within a reasonable period as per the law laid down by this Court and the learned judge ought not to have adjourned the O.P. from time to time without disposal of the same. The learned VI Additional Principal Judge ought to have seen that the petitioner is unable to educate her children on account of financial crisis and as such, they are deprived of their education as well as peaceful life for non-payment of maintenance. The respondent failed to make any payment, which is bound to do as a natural guardian of the petitioner's children. Finally, the learned counsel states that the learned trial Judge ought not to have adjourned the matter from time to time and the same

has been kept pending for more than 8 years. Hence, the learned counsel for the petitioner prays to allow this petition.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. It is seen that the petitioner was married to the respondent as aforesaid on 13.12.1999 and she was unable to get along with the respondent, on account of cruelty meted out to her and as a result of the same, she left the matrimonial home in the year 2007 along with her children, who were born to the petitioner out of their wedlock. Thereafter, the petitioner filed O.P.No.1888 of 2012, on the file of the learned VI Additional Principal Judge, Family Court, Chennai for dissolution of marriage solemnized between them. The petitioner also filed a maintenance case in M.C.No.603 of 2013 under Section 125 of CRPC on 23.11.2013. In the said M.C., the petitioner sought for a sum of Rs.5,000/- as maintenance and also sought Rs.15,000/- each per month as maintenance towards her children, on account of education and other incidental expenses.

6. On a perusal of the adjudication orders, the learned trial Judge took the same on file on 04.07.2012 and issued notice to the respondent. Despite the service of notice, the respondent has been dragging on the matter for several hearings without filing any counter affidavit. Ultimately, the counter affidavit was filed by the respondent only on 07.03.2018 after a span of almost six years. Though the counter was filed by the respondent on 07.03.2018, the learned trial Judge did not take up the matter for enquiry, and as a result of which, the O.P. was adjourned from time to time i.e., 14.03.2018, 04.04.2018, 06.06.2018, 25.06.2018, 16.07.2018, 01.08.2018, 03.09.2018, 26.09.2018, 12.10.2018, 19.11.2018 and 12.12.2018, which clearly shows that the learned trial Judge has not taken up the matter seriously and no enquiry has been conducted and till date, the matter has not attained finality. The children are now aged about 20 and 16 years respectively. The petitioner had to borrow huge sum from various sources to educate her children without any financial help from her husband. The Court below has also not considered the fact that being a natural guardian of the children, the respondent is bound to provide maintenance for the children.

7. On going through the facts and circumstances of the case, the Court below has been adjourning the matter for a long time for the appearance of the respondent and on 04.09.2020, the matter was posted for evidence and till date, the matter has not been proceeded further. The petitioner herein has filed a petition for divorce against the respondent and the same is kept pending from the year 2012 till date, without taking any steps. The matter has been prolonged for litigation and as there is no order passed in the maintenance case also, the maintenance petition is also kept pending, which has caused irreparable hardship to the petitioner.

8. This Court directs the learned VI Additional Principal Judge, Family Court, Chennai to conduct the trial on a day to day basis and complete the maintenance case in M.C.No.603 of 2013, within a period of two months and the main case in O.P.No.1882 of 2012, within a period of four months from the date on which the order copy is made ready.

V.BHAVANI SUBBAROYAN, J.

sbn

9. Accordingly, the Civil Revision Petition stands disposed off. No costs.

19.02.2021

Index:Yes/No
Speaking order/Non-Speaking Order
sbn

To

The learned VI Additional Principal Judge,
Family Court,
Chennai.



WEB COPY

C.R.P. (PD) No.237 of 2021