

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD) No.520 of 2021

R.P. Dhayalan, ... Petitioner

Vs.

K. Ramya
Respondent

Prayer: This Civil Revision Petition filed under Section 115 of Civil Procedure Code seeking for a direction to the Learned Family Court Judge, Vellore, to dispose of the Original Petition filed under Section 13(1)(i-a) of Hindu Marriage Act, 1955 in FCOP No.188 of 2020 within a shorter time as fixed by this Hon'ble Court.

For Petitioner ... Mr.S. Venkatesh

For Respondent ... No Appearance

ORDER

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This Civil Revision Petition has been filed under Section 115 of Civil Procedure Code seeking for a direction to the Learned Family Court Judge, Vellore, to dispose of the Original Petition filed under Section 13(1)(i-a) of Hindu Marriage Act, 1955 in FCOP No.188 of 2020 within

a shorter time as fixed by this Court.

2. The case of the petitioner is that the petitioner herein is the husband and the respondent herein is the wife who got married on 31.08.2014 as per Hindu Rites and Customs. Out of the wedlock, two female children were born to them. In view of the ill advice of the mother of the respondent, the respondent started to give mental torture to the petitioner herein and further the respondent denied to cohabit with the petitioner herein. Due to the misunderstanding and dispute between the petitioner-Husband and the respondent-Wife, the petitioner has filed FCOP No.188 of 2020 on the file the Family Court, Vellore in the month of October, 2020 and I.A. No.1 of 2020 on its file for visitation of children of the petitioner once in a week. Both the petitions are pending without any progress being adjourned periodically. Hence, the present petition has been filed for a direction to the Family Court, Vellore to dispose of the case within a shorter time as fixed by this Court.

3. The learned Counsel appearing for the petitioner would submit that the respondent started to indulge in wordy quarrel with the petitioner even for silly matters which could not borne by the petitioner

herein. Further, after the respondent left the matrimonial home, she did not return home despite the repeated request of the petitioner herein and she is living with her mother, Since the respondent denied to cohabit with the petitioner herein, without no other option, the petitioner has filed a Divorce petition in FCOP No.188 of 2020 before the Family Court, Vellore on 14.10.2020 and thereafter, I.A.No.1 of 2020 has been filed to visit his Children once a week before it. Other than the adjournments from time to time, the case is not disposed of till now. Hence, this Court may direct the Family Court, Vellore as prayed for.

4. Heard, the learned counsel for the petitioner as well as perused the material available on record.

5. On a perusal of the record, it is seen that the petitioner has sent intimation by Registered Post to the respondent-wife on 12.08.2020 asking for acceptance of divorce as per the Section 10(1) of Hindu Marriage Act, 1955, through 1. Hon'ble Governor of Tamil Nadu, 2.Thiru, Chief Secretary to Secretariat 3.Thiru.Collector, Satuvvari, Vellore-9, 4. The Social Welfare Officer, Satuvachari, Vellore, 5. The

District Police Superintendent, 6.The Inspector of Police, All Women Police Station, Vellore. 7. The Registrar General, Madras High Court, 8.Hon'ble District Sessions Judge, 9.Hon'ble Principle District Judge, Vellore, 10.The Family Court Judge, Vellore stating that the respondent is not ready and willing to cohabit with the petitioner even after repeated request made by him and it has further been stated that the respondent-wife has also agreed to allow the petitioner to go for 2nd marriage and hence the petitioner is ready to get married for the 2nd time. This communication was made on 12.08.2020 and the petitioner has filed FCOP No.188 of 2020 on 14.10.2020 under Section 13(1)(i-a) of Hindu Marriage Act, 1955, within two months seeking decree of divorce, thereby dissolving the marriage between the petitioner and respondent held on 31.08.2014 on the ground of cruelty. Further, the case has been adjourned from 14.10.2020 to 09.12.2020 for issue of service. Thereafter, the case has been referred for the mediation from 09.12.2020 to 24.02.2021. In the history of hearing, the case is pending for mediation and there is no record of appearance of the respondent. Under these circumstances, it is clear that while serving the communication for divorce to the respondent through dignitaries, it is seen the petitioner has already

decided to get married for the 2nd time leaving the respondent herein-wife and his two Female Children, the petitioner is moving FCOP No.188 of 2021 on the file of the Family Court, Vellore, having a pre-determined motive. Since the case filed in the month of October 2020 is pending for mediation from 09.12.2020 to 24.02.2021 and there is no representation on the side of the respondent-wife in the Court proceedings, the petitioner has filed immediately, the present Civil Revision Petition seeking for a direction of speedy disposal of the FCOP case. It is abuse of process of law and relief sought by the petitioner is liable to be rejected. Hence, this Court is not inclined to grant relief prayed by the petitioner in this Civil Revision Petition.

6. In the result, this Civil Revision Petition stands dismissed with cost of Rs.500/- payable to the Advocate's Clerk Association, High Court of Madras. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

15.03.2021

Lbm

Index: Yes/No.

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Speaking/Non-Speaking order
Internet: Yes/No.

V. BHAVANI SUBBAROYAN, J.,

lbm

To:
The Family Court, Vellore.



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