

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.01.2021

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.453 of 2020

J.Bhama

... Petitioner

Vs.

Dr.Neethiraj

... Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India to direct the IV Additional Family Court, Chennai to expedite the disposal of the main O.P.No.5026 of 2018 within a stipulated time.

For Petitioner : Mr.T.Jayaramaraj

O R D E R

The present Civil Revision Petition has been filed for directing the IV Additional Family Court, Chennai to expedite the disposal of main O.P.No.5026 of 2018 within a stipulated time as fixed by this Court.

2. The case of the petitioner is that the marriage between the petitioner and the respondent was solemnized on 10.11.1991 at A.V.M Rajeshwari Kalyana Mandapam, as per Hindu Rites and Customs. Further, out of the wedlock, one child namely, Divyapriya was born in the year 1992. Due to the violent attacks by the respondent / husband, the petitioner was living separately from the year 1999 onwards. Initially, the petitioner had filed O.P.No.2113 of 1999 and subsequently, the petitioner proceeded to United States of America seeking for a job and since the petitioner is in U.S.A., she cannot contest the suit and not proceeded further and the same has been dismissed for default. Thereafter, the petitioner filed another petition in O.P.No.5026 of 2018 seeking to pass a decree of divorce, dissolving the marriage solemnized between the petitioner and the respondent on 10.11.1991 on the ground of desertion. Since the same is pending without any action, the

petitioner has filed this Revision Petition seeking for an early disposal of the said case within a stipulated time.

3. Heard Mr.T.Jayaramaraj, learned counsel appearing for the petitioner and perused the documents placed on record. Though the respondent was served and name is printed in the cause list, there is no representation for the respondent either in-person or through learned counsel.

4. On going through the adjudication papers, it is evident that counselling took place between both the petitioner and the respondent and for further counselling, it was posted on 09.08.2019 and on 09.08.2019, both the parties remained absent. On 29.01.2020, the matter was supposed to be posted for cross examination of P.W.1 by the respondent, but the same was adjourned at the request of the respondent. It is also seen from the papers that on 04.02.2019, 19.02.2019, 25.06.2019, 27.06.2019, 04.07.2019 and on 30.09.2019 the petitioner was present and on 20.03.2019, 13.05.2019, 09.08.2019 and 06.09.2019, the petitioner remained absent and hence the matter was posted for enquiry and P.W.4 marked for cross examination of P.W.1 by 09.10.2019 and again the petitioner was absent from 09.10.2019.

5. From the aforesaid court proceedings, it is seen that the petitioner has filed this petition for dissolution of marriage for the second time. Further, it is the petitioner, who had absented herself from the adjudication proceedings frequently and as a right, the petitioner cannot claim that the matter should be heard in a specific date, time and should be disposed of. That apart, the petitioner has not given elaborate reasons as to why she has not contested the Original Petition, which was filed earlier and what happened all these years and she has also filed the O.P.No.5026 of 2018 before the court below for the same relief. Now, by way of the present Revision Petition, she seeks for early disposal of the O.P.No.5026 of 2018. Therefore, this Court is inclined to direct the petitioner to appear before the concerned court below in the month of February, 2021.

6. When this Court was about to direct the petitioner and the respondent to appear before the court below during the month of February, 2021, considering the prayer made by the petitioner for a speedy disposal of the case, the learned counsel appearing for the petitioner submits that at present the petitioner is in U.S.A and due to the pandemic situation on account of Covid-19, the petitioner will not be in a position to come to India and seeks that the matter may be listed during the month of March or December, 2021

7. This Court is not inclined to accept the prayer of the

learned counsel for the petitioner and this Court is also not inclined to pass any such orders in this Revision petition. The learned IV Additional Judge, Family Court, Chennai is hereby directed to follow the procedure established under Law and proceed with this matter appropriately. Taking note of the fact that the petitioner has not shown any valid reason for not proceeding in the first petition, viz., O.P.No.2113 of 1999 and in the second petition, viz., O.P.No.5026 of 2018 also, it is seen that frequently, the petitioner was only absent and coupled with the fact that the petitioner has not shown any valid reason for disposing of the matter by directing the learned IV Additional Judge, Family Court, Chennai to expedite the disposal of the main O.P.No.5026 of 2018, this Court is of the view that the Court cannot act as per the whims and fancies of the petitioner and can only proceed as per law.

In view of the above, the present Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

To
The Judge,
The IV Additional Family Court,
Chennai.

Copy To:

The Section Officer,
VR Section, High Court, Madras.

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RMP(04/02/2021)

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