

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 22.07.2021**

**CORAM**

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

**C.R.P. (PD) No. 1301 of 2021**

S.Kamalatchi

... Petitioner

-VS-

S.Ravikumar

... Respondent

**PRAYER :** Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 30.03.2021 passed by the Hon'ble Family Court Judge at Tiruvallur in I.A. No. 3 of 2021 in I.A. No. 2 of 2020 in H.M.O.P. No. 35 of 2015 connected with H.M.O.P. No. 86 of 2014 both cases pending before the Family Court, Tiruvallur.

For Petitioner : Mr.M.Udaiya Bhan

For Respondent : Ms.Elizabeth Rani

**ORDER**

The Revision Petition has been filed questioning the order dated 09.04.2021 passed in I.A. No. 3 of 2021 in I.A. No. 2 of 2020 in H.M.O.P. No. 35 of 2015, pending before the Family Court, Tiruvallur.

2. The said I.A. No. 3 of 2021 had been filed to reopen I.A. No. 2

of 2020. The I.A. No. 2 of 2020 has been filed to reopen the trial proceedings to cross-examine the revision petitioner herein by the respondent.

3. A perusal of the order and note papers reveals that H.M.O.P. No. 35 of 2015 had been originally instituted as H.M.O.P No. 86 of 2014, which effectually means that, the said petition has been circulating around the Courts of law without attaining finality for the past nearly eight years.

4. Naturally, going through such a torturous litigation, any party or any litigant would be frustrated.

5. It is seen that the respondent herein / husband had filed an application to recall the revision petitioner / wife for cross-examination. In the order now questioned in this Revision, though the learned Family Court had stated that the cross-examination had been done and evidence have been closed, and the case had been posted for arguments, and that

the respondent / husband herein had then filed I.A. No. 2 of 2020 to reopen the evidence to recall the wife for further cross-examination, the application was allowed.

6. It is also seen that, the revision petitioner / wife herein was present for subjecting herself for cross-examination on two separate occasions, but the learned counsel for the respondent herein / husband did not cross-examine the wife and therefore, the evidence was closed. I can understand the frustration of the learned Family Judge, Tiruvallur and also of the petitioner herein.

7. Thereafter another application was filed to reopen I.A. No. 2 of 2020. It was claimed that the said application was not maintainable.

8. The learned Family Court Judge however allowed the application to reopen the I.A. No. 2 of 2020 on payment of costs of Rs.3,000/-. Questioning the particular order, the present Civil Revision Petition has been filed.

9. At some point of time the trial should come to an end and cross-

examination should be concluded. It leads to an anarchious situation, when after concluding the cross-examination, the parties file applications seeking to recall the witnesses for the purpose of further cross-examination. It will go on and on and no matter can be concluded.

10. In the present case, the order of the learned Judge shows that exhibits have been marked by both sides and only thereafter has evidence been closed. After that, the respondent herein filed an application to reopen the evidence in I.A. No.2 of 2020. That application was allowed. Though the revision petitioner / wife was present, the respondent did not cross examine her. Naturally, the application came to be closed. Again another application in I.A. No. 3 of 2021 came to be filed to reopen I.A. No. 2 of 2020.

11. I find fault with the learned Family Judge, Tiruvallur for again giving a favourable consideration in I.A. No. 3 of 2021. The order under Revision has to be necessarily interfered with. In the affidavit filed in support of I.A. No. 3 of 2021, it had been stated that, cross-examination

could not be done due to lock down and partial relaxation of lock down. However, no reason had been given as to why, further cross-examination should be done. The particular aspects on which, further examination should be conducted has not been mentioned in the affidavit. The aspects which have been left out during the earlier cross-examination and the new aspects which are now sought for cross-examination have not been pointed out. There is no indication of fresh facts coming to the knowledge of the respondent herein requiring him to further cross examine the witness whose cross examination had already been closed. The affidavit is bereft of material particulars for recalling the witness and to reopen the evidence, which cannot be granted again and again.

12. The parties have been agitating for the past eight years. Since the suit is still hanging in balance thereby effecting the already strained marital relationship. I am informed that the matter has now been posted for arguments and written arguments have already been filed. The respondent may join the issue and file written arguments and ensure that H.M.O.P. No. 35 of 2015 comes to a conclusion one way or the other.

13. The order under Revision is set aside.

14. The Civil Revision Petition is allowed and a direction is given to the learned Family Court Judge, Tiruvallur to dispose of H.M.O.P. No. 35 of 2015 on or before 17.09.2021. There shall be no order as to costs.

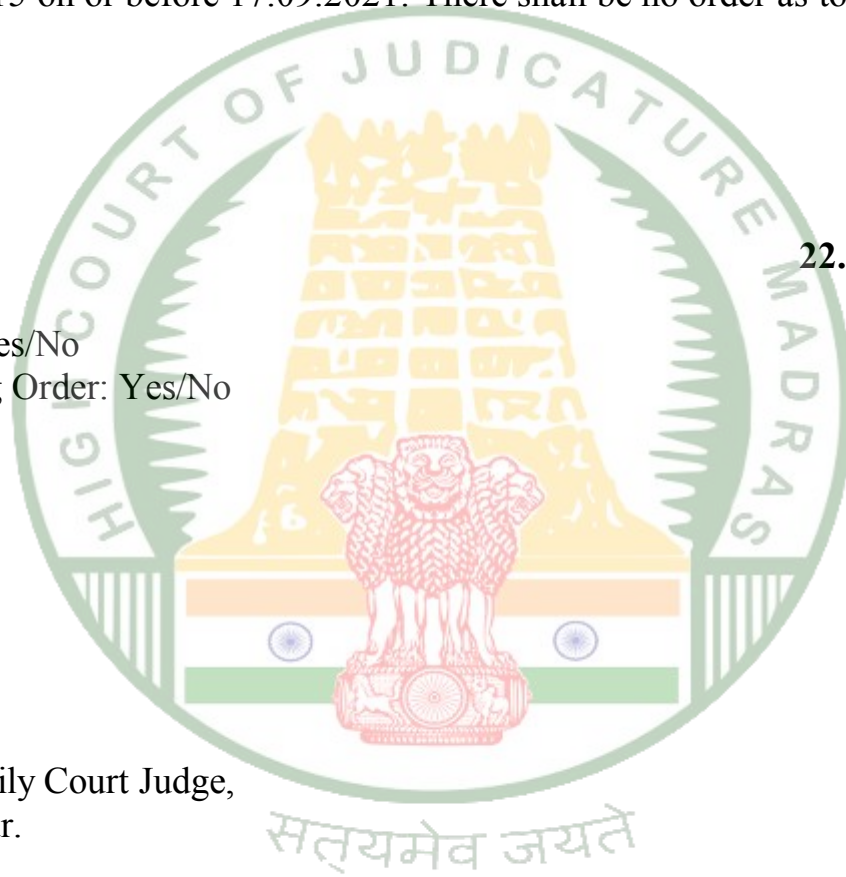
22.07.2021

Index: Yes/No  
Speaking Order: Yes/No

vji

To

The Family Court Judge,  
Tiruvallur.



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**C.V.KARTHIKEYAN,J.**



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