



C.R.P. Nos.2342 & 2344 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) Nos.2342 & 2344 of 2021
and C.M.P. No.17738 of 2021

Kannan

..Petitioner in both petitions

Versus

Premavathi

...Respondent in both
petitions

Prayer in C.R.P.(NPD) No.2342 of 2021: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal passed in I.A. Nos.1 of 2019 in H.M.O.P. No.144 of 2015 dated 15.03.2021 on the file of the learned Subordinate Court at Mettur and thereby allow the above Civil Revision Petition and set aside the same.

Prayer in C.R.P.(NPD) No.2344 of 2021: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal passed in I.A. Nos.2 of 2019 in I.A. No.118 of 2017 in H.M.O.P. No.144 of 2015 dated 15.03.2021 on the file of the learned Subordinate Court at Mettur and thereby allow the above Civil Revision Petition and set aside the same.



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For Petitioner : Mr. A.Rajeshkanna
(in both petitions)

COMMON ORDER

C.R.P. Nos.2342 & 2344 of 2021 are filed challenging the orders passed by the learned Subordinate Judge, Mettur, in I.A. No.1 & 2 of 2019 respectively in H.M.O.P. No.144 of 2015.

2. Learned counsel for the petitioner submitted that the petitioner filed a petition for divorce under Hindu Marriage Act, against the respondent. The respondent filed I.A. No.118 of 2017, seeking interim maintenance under Section 24 of Hindu Marriage Act, 1956. The petitioner had not filed counter and therefore, the lower Court passed an order directing the petitioner to pay a sum of Rs.5,000/- towards interim maintenance to the respondent along with the litigation expenses of Rs.5,000/-. Since the petitioner has not paid the maintenance as ordered by the Court, the respondent filed I.A. No.1 of 2019 for dismissing H.M.O.P. No.144 of 2015. The learned Subordinate Judge, Mettur, on considering the rival submissions, ordered I.A. No.1 of 2019 by directing the petitioner to pay the arrears of maintenance as ordered by the Court, within a period of 60 days from the date of that order.



3. The petitioner filed I.A. No.2 of 2019 for condoning the delay of 509 days in filing the restoration petition. Obviously, the prayer itself is not correct for the reason that the petition was not dismissed, but the petitioner was set ex-parte in I.A. No.118 of 2017. The learned Subordinate Judge, Mettur, dismissed I.A. No.2 of 2019 on the reason that when I.A. No.118 of 2017 was allowed, after setting respondent therein as exparte, the petitioner cannot seek restoration of petition. Challenging these orders, these Civil Revision Petitions are preferred.

4. Considered the submissions and perused the records.

5. As narrated above, the petitioner filed divorce petition against wife in the year 2015. On 06.07.2017, an interim maintenance of Rs.5,000/- was ordered to be paid by the petitioner to the respondent in I.A. No.118 of 2017. The petitioner is said to be a Carpenter. For a Carpenter, paying Rs.5,000/- as interim maintenance to wife is not a big task. The sum of Rs.5,000/- is also a meagre amount. Considering the present economic scenario and the price rise, this Court is not inclined to interfere with the order of learned Subordinate Judge, Mettur, in ordering Rs.5,000/- as interim maintenance to the respondent. In so far as I.A. No.2 of 2019 is concerned, the prayer itself is not correct and



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therefore the petition was rightly dismissed by the learned Judge. The prayer in

I.A. No.1 of 2019 is to dismiss the H.M.O.P. No.144 of 2015 for non-payment of maintenance. The learned Subordinate Judge, Mettur, deems it fit to give an opportunity to the petitioner to pay the amount and granted 60 days time for paying arrears of interim maintenance from the date of filing the petition. It is an opportunity given to the petitioner to pay the amount and contest the main divorce petition.

6. This Court finds no reason to interfere with the order passed by the learned Subordinate Judge, Mettur, in I.A. Nos.1 & 2 of 2019. Learned counsel for the petitioner submitted that the petitioner may be given sufficient time to pay the interim maintenance as ordered by the lower Court. Considering the request, the petitioner is granted 60 days time from today, for paying the arrears of maintenance as ordered by the Court in I.A. No.118 of 2017. The petitioner is also directed to pay the interim maintenance for the future months without any default.

7. Accordingly, these Civil Revision Petitions are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/ No
Speaking Order / Non-Speaking Order
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Copy to:

The Subordinate Judge, Mettur.



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G.CHANDRASEKHARAN, J.,

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