

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP(PD)No.2031 of 2020

and

CMP.No.12769 of 2020

V.Ramesh Kumar,
S/o. T.Selvakumar

... Petitioner

Vs.

S.Switha,
D/o. Samraj

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 13.03.2020 passed in I.A.No.111 of 2019 in H.M.O.P No.98 of 2017 by the Sub Court, Arakkonam, Vellore District.

For Petitioner : Mr.R.Ramesh

For Respondent : Mr.K.Balasubramaniam

ORDER

(This case has been heard through video conference)

The Civil Revision Petition has been filed, questioning the order dated 13.03.2020 in I.A.No.111 of 2019 in H.M.O.P No.98 of 2017 which had been filed by the husband seeking divorce on the ground of cruelty and desertion.

2. Pending the said HMOP No.98 of 2017, the petitioner had filed I.A.No.111 of 2019, under Section 26 of the Hindu Marriage Act, seeking permission to see the children either in a public place or in any other place within the specific time period.

3.The petitioner and the respondent in HMOP No.98 of 2017 had entered into a marital relationship on 02.05.2012. It was conducted at Arulmighu Thiru Kadaiyur Amirtha Kadeera Swamy Temple. The marriage reception was subsequently conducted on 06.05.2012 at Arakkonam.

4.Since the petition is still pending and in the stage of trial, it would be extremely inappropriate on the part of this Court to examine the merits of the contentions of either parties. It is suffice to mention that the respondent/wife had also entered appearance and filed a counter and as stated about, the trial has commenced.

5.It is informed that the petitioner had examined himself as P.W.1 and he has to be further cross examined on behalf of by the respondent/wife. There has thus been no substantial progress in HMOP No.98 of 2017 which is now

pending for the past 4 years. It is a torturous experience not only for the petitioner and the respondent and more particularly for the child.

6.In I.A.No.111 of 2019, an order had been passed on 13.03.2020, wherein the learned Judge had observed in para 7 *“Considering the fact that the child was not in a consenting mode to go along with his father for a day, this Court is of the view that in the best interest of the child it would not be appropriate to permit the petitioner to take the child to any public place or any other place for a specified time.”*

7.The intention of the child had been determined by the learned Judge and therefore it would only be in the interest of the child and also in the interest of both parties that the trial comes to a quick end and the issues decided. The learned Judge can thereafter, pass a final order with respect to the issues raised in HMOP No.98 of 2017 and also with respect to the allied issue of custody of the child.

8.It is complained by the learned counsel for the petitioner that the respondent herein had not complied with the directions of rights to visit given

by a learned single Judge of this Court and the learned counsel stated that he has filed contempt application.

9.The petitioner herein should concentrate and ensure that the trial in HMOP No.98 of 2017 is brought to a quick end.

10.Therefore, the following directions are passed:-

(i) The parties to appear before the Trial Court namely the Principal Sub Court, Arakkonam.

(ii) The learned Sub Judge is directed to conduct trial on a day to day basis. If at all any adjournments are sought, maximum of three working days alone can be given between any two adjournments. Not more than two adjournments can be granted for the same reason. If the trial is conducted by following the said procedure any trial in any suit, can be completed within a specified period.

(iii)The petitioner herein Mr.V.Ramesh Kumar is directed to abide by the directions of this Court.

11.The directions of this Court are to appear before the Trial Court for every hearing whenever the date is fixed for cross examination and thereafter also permit the respondent herein to examine herself as a witness and to cross examine the witness on all the aspects raised in the petition and in the counter. The issue of visitation rights is to be kept aside and the order passed in I.A.No.111 of 2019 is set aside. No further visitation rights can be afforded to the petitioner herein. Final orders with respect to the custody of the child or with respect to the visitation of either one of the parties should be passed by the learned Principal Sub Judge in the Court while deciding the main HMOP No.98 of 2017.

12.At any rate, HMOP No.98 of 2017 shall be disposed of on or before 31.08.2021. A specific direction is given to both the petitioner and the respondent herein to abide by the directions of this court to participate during trial and to ensure that HMOP No.98 of 2017 is disposed of as aforesaid,by 31.08.2021.

13.With the above directions, the Civil Revision Petition is disposed of. No directions are given with respect to visitation rights. The learned Sub Judge

C.V.KARTHIKEYAN, J.

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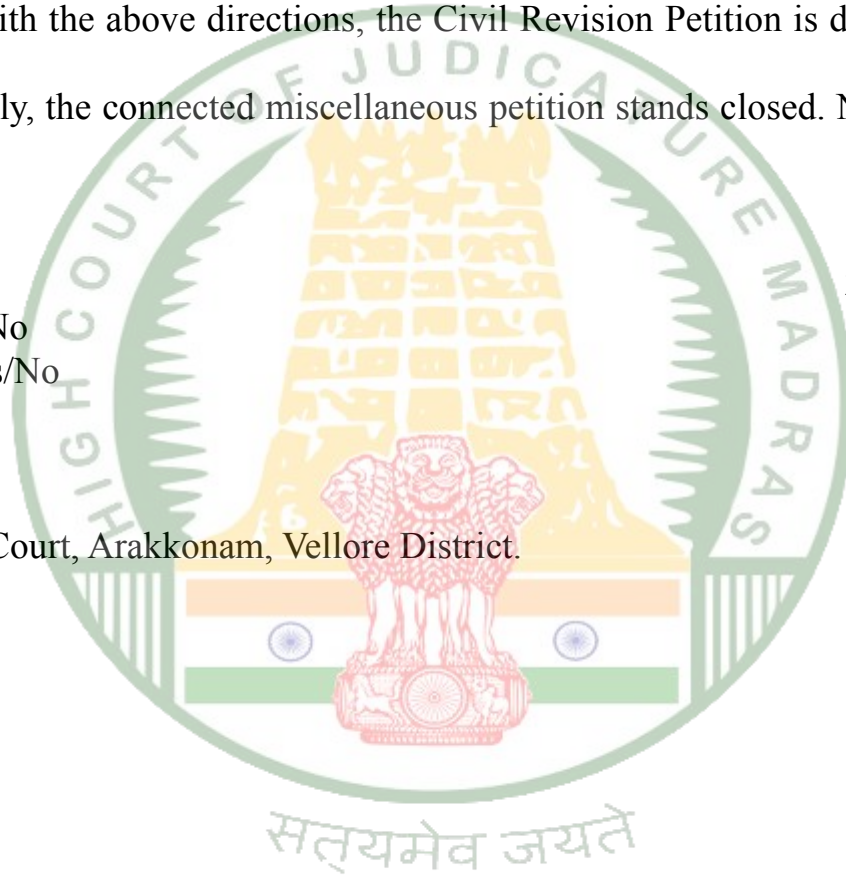
will pass such direction and visitation rights may be given on conclusion of trial and in the course of judgment in the main HMOP No.98 of 2017.

14.With the above directions, the Civil Revision Petition is disposed of. Consequently, the connected miscellaneous petition stands closed. No order as to costs.

22.06.2021

Index:Yes/No
Internet:Yes/No
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To
1.The Sub Court, Arakkonam, Vellore District.



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