

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.2204 of 2021

M.Arunadevi

...

Petitioner /
Respondent

versus

V.Vinod Kumar

...

Respondent /
Petitioner

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, to set aside the petition and order in I.A.SR.No.5192 of 2021 in O.P.No.3837 of 2013 dated 13.09.2021.

For Petitioner

: Mr.Ravi Kumar Paul
for M/s.S/Sridevi

For Respondent

: Mr.B.Viveka Vanan

ORDER

This Civil Revision Petition is filed, challenging the order dated 13.09.2021 passed by the learned Principal Judge, Family Court, Chennai, in I.A.SR.No.5192 of 2021 in O.P.No.3837 of 2013.

2. The learned counsel for the petitioner submitted that, when the matter was pending for respondent's evidence, the petitioner, who is the respondent in the main petition filed the aforesaid I.A.SR.No.5192 of 2021 seeking permission to file additional counter. The need for filing additional counter arose for the reason that, certain subsequent events have to be brought to the notice of the Court and that certain things, which had taken place earlier have not been brought on record in the counter. In the nature and circumstances of this case, filing of additional counter is necessary. However, he submitted that this petition was rejected mainly for the reason that as per Order VIII Rule 9 of C.P.C., additional counter has to be filed within 30 days, where the petitioner engaged new counsel and filed her objection in the additional documents. The petitioner has not taken the defence at an earlier point of time. On these reasons, the petition came to be rejected. Against the rejection order, this Civil Revision Petition is preferred.

3. The learned counsel for the respondent submitted that, the case is pending from the year 2013 and the examination of the witnesses had commenced. Now, it is pending for examination of R.W.1. There is also

a direction from this Court to conclude the enquiry in H.M.O.P.No.3837 of 2013, within a period of 9 months from March 2021. Now, at this stage, this petition is filed, with a view to drag on the proceedings. Therefore, this petition for rejection of additional counter was rightly rejected. The learned counsel for the respondent prayed for dismissal of this Civil Revision Petition.

4. Considered the rival submissions and perused the records.

5. The petition to receive additional counter was rejected after extracting Order VIII Rule 9 of C.P.C. with regard to the subsequent pleadings. It is said that the additional counter has to be filed within 30 days, where the petitioner engaged new counsel and filed her objection in the additional documents. Obviously, it is not the correct reason for the reason that, as per Order VIII Rule 9 C.P.C., additional pleadings can be received subject to the leave granted by this Court and from 30 days of permission granted by the Court.

6. Therefore, this Court is of the considered view that, the merits of the claim by the petitioner for filing additional counter should be considered after taking this Interlocutory Application on file, giving opportunity to the respondent to file counter and after hearing both the parties. The petition should be disposed of, on merits and in accordance with law. Since the main divorce petition was filed only in 2013, the learned Principal Judge, Family Court, Chennai, is directed to dispose of this I.A.SR.No.5192 of 2021 and the main H.M.O.P.No.3837 of 2013 as expeditiously as possible, preferably within a period of three (3) months from the date of receipt of a copy of this order.

7. With these observations, this Civil Revision Petition is disposed of. However, there is no order as to costs.

25.10.2021

Speaking order / Non-speaking order
Index : Yes / No

Note : Issue Order Copy on 26.10.2021

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To

The Principal Judge,
Family Court, Chennai.



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G.CHANDRASEKHARAN, J.

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