



C.R.P.(N.P.D).No.2311 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.10.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(N.P.D)No.2311 of 2021
and C.M.P.No.17521 of 2021**

T.R.Manikkandan

...Petitioner

Vs.

Indira alias Sai Devi

...Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No.101 of 2021 in H.M.O.P.No.875 of 2018 dated 01.10.2021 on the file of the Sub-Court at Tambaram by allowing this Civil Revision Petition.

For Petitioner : Mr.R.Jayaprakash
For Respondent : Mr.Diwakar for M/s.P.J.Bency Switesingh
Dhas for caveator

ORDER

This Civil Revision Petition is filed challenging the order passed in I.A.No.101 of 2021 in H.M.O.P.No.875 of 2018 by the learned Sub Judge, Tambaram on 01.10.2021.



C.R.P.(N.P.D).No.2311 of 2021

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2.The learned counsel for the petitioner submitted that the respondent filed H.M.O.P.No.875 of 2018 under Section 13 (1) (1a) (1-b) of the Hindu Marriage Act seeking divorce against the petitioner. When the matter was posted for cross examination of PW1 on 04.03.2021, petitioner appeared before the Court and the case was passed over during the calling hour. Petitioner's counsel was also ready for cross examination of PW1. However, when the petitioner went to lunch at 1.15p.m., petitioner was called again at 1.30.p.m. and set *ex-parte*. Evidence of PW1 was closed. The case was posted for further evidence on 01.04.2021. When the petitioner was present and his counsel was ready to cross examine PW1, *ex-parte* order ought not to have been passed against the petitioner. Therefore the petition.

3.The respondent filed counter in this petition and contested the claim of the petitioner. It is seen from the counter filed by the respondent that inspite of several opportunities given to cross examine of PW1, petitioner with an intention to drag on the proceedings failed to complete the cross examination of PW1. On 04.03.2021, the matter was passed over by the Court and then called at 12.30p.m. When the matter was called again, there was no representation for the petitioner or his counsel. Therefore, petitioner was set



C.R.P.(N.P.D).No.2311 of 2021

ex-parte and the case was posted for further evidence of petitioner. The learned Sub Judge, Tambaram, considered the rival submissions passed a conditional order in the petition. Against the said order, this Civil Revision Petition is preferred.

4.Considered the rival submissions and perused the records.

5.The main ground on which the petition in I.A.No.101 of 2021 in H.M.O.P.No.875 of 2018 was filed that petitioner was set *ex-parte* during the lunch time at 1.30p.m on 04.03.2021. However, as narrated above, it is seen from the counter of the respondent that petitioner was set *ex-parte* at 12.30p.m. The order of the learned Sub Judge, Tambaram also shows that, 1.30p.m. to 2.00p.m. is lunch session for the Court. No case would be called during lunch time and therefore, there is no question of passing *ex-parte* order against anyone during lunch time. It is observed that suppressing real reasons for filing the petition, allegation was made against the Court and Presiding Officer that *ex-parte* order was passed during the lunch time. It appears that the petitioner has not given any evidence with regard to the availability of petitioner and his counsel at the time when the matter was called. Therefore, this Court finds



C.R.P.(N.P.D).No.2311 of 2021

there is no reason to interfere with the conditional order dated 01.10.2021 in I.A.No.101 of 2021 in H.M.O.P.No.875 of 2018 passed by the learned Sub Judge, Tambaram and the said order is confirmed.

6.H.M.O.P.No.875 of 2018 filed in the year 2018 and it is pending for examination of witnesses and therefore, the learned Sub Judge, Tambaram is directed to dispose H.M.O.P.No.875 of 2018 as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

7.Resultantly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

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27.10.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No



C.R.P.(N.P.D).No.2311 of 2021

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To

- 1.The Subjudge,
Tambaram
- 2.The Section Officer,
VR Section,
High Court of Madras.



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C.R.P.(N.P.D).No.2311 of 2021

G.CHANDRASEKHARAN.J.

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