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C.R.P.(PD).No.2863 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD).No.2863 of 2021

Dr.Senthil Kumar Elangovan

.. Petitioner

Vs.

D.Gnanakalyani

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to allow I.A.Sr.No.7941 of 2021 presented under Section 151 of CPC praying for advance the date of hearing of Tr.OP.No.5151 of 2021 from 29.12.2021 to any early date prior to 14.12.2021 and to direct the learned Principal Family Court, Chennai to number the petition in I.A.Sr.No.7941 of 2021 and to advance the hearing of the Tr.OP.No.5151 of 2021 and dispose the same at an early date.

For Petitioner : Mrs.A.Arulmozhi



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C.R.P.(PD).No.2863 of 2021

ORDER

Considering the nature of the order impugned in this Revision, notice to the respondent is deemed unnecessary.

2. This Revision is a result of a wholly insensitive approach adopted by the learned Principal Judge, Family Court, Chennai. It is rather unfortunate that such a senior Officer should make a return of a petition seeking advance hearing of Transfer petition, filed before her on the ground that notice in the Transfer Petition is not served on the respondent in the Transfer Petition.

3. The respondent in this Revision filed Tr.O.P.No.5151 of 2021 on the file of the Principal Family Court, Chennai seeking transfer of O.P.No.3579 of 2015 from the file of the IV Additional Family Court to any other Family Court, making certain allegations against the Presiding Officer.

4. The said application was entertained by the Family Judge and



C.R.P.(PD).No.2863 of 2021

notice was ordered. In the meantime, it appears that a memo was filed before the IV Additional Judge, before whom the Original Petition was pending on 07.12.2021, informing the Court that the Transfer Petition in Tr.O.P.No.5151 of 2021 has been filed in the Principal Family Court and the Principal Family Court has ordered notice and adjourned the matter to 27.12.2021/29.12.2021. Private notice also appears to have been sent by the petitioner in the Transfer Original Petition, to the respondent and the same was served on the counsel for the respondent. On receipt of the said notice, the petitioner herein attempted to move the Principal Family Court seeking to advance the hearing of the transfer petition citing various reasons including ill-health and imminent necessity for him to travel abroad.

5. The learned Principal Family Judge returned the said petition with the following endorsement:

“Petition is returned since the notice not served to the respondent as per Court record, hence, this petition is returned”

6. It is the fundamental that a person who comes to know about the



C.R.P.(PD).No.2863 of 2021

pendency of certain proceedings in a Court of law, can appear even without service of notice and seek early hearing. The Court cannot say that he should wait till the notice is served on him through Court or privately. I am at loss to understand that a senior Officer designated as a Principal Judge of Family Court has exhibited total ignorance of procedure and the rights of the parties, who are before the Court of law and had chosen to make such a silly return requiring the petitioner to wait for service of notice.

7. I am satisfied that this order cannot stand a minute judicial scrutiny. Hence, the order of the Principal Family Judge dated 08.12.2021, returning the petition seeking to advance the hearing is set aside. I invoke my supervisory jurisdiction under Article 227 of the Constitution of India and direct the Principal Family Judge to dispose of the Tr.O.P.No.5151 of 2021 on or before 23.12.2021 and report such disposal to this Court. The learned Principal Family Judge can issue notice to the respondent, of this *suo moto* advancement made by this Court and take up the matter immediately.



C.R.P.(PD).No.2863 of 2021

WEB COPY 8. This Civil Revision Petition is disposed of with the above directions. No costs.

14.12.2021

Note:- Upload order copy today (14.12.2021).

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Index : No

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Speaking order

To

The Principal Family Judge, Chennai.



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C.R.P.(PD).No.2863 of 2021

R.SUBRAMANIAN, J.

dsa

C.R.P.(PD).No.2863 of 2021

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