



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (MD) No.157 of 2021

WEB COPY

1. S.K.Suresh Anand

2. K.Sandhiya

... Revision Petitioners/Petitioners

-Vs-

Nil

...Respondent/Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, pleaded to set aside the order dated 08.01.2021 passed by the learned Family Judge, Madurai in unnumbered OP filing No./5401/2020 under Section 13-B of the Hindu Marriage Act.

For Petitioner : Mr.M.Maran

O R D E R

This Civil Revision Petition has been filed to set aside the order dated 08.01.2021 passed by the learned Family Judge, Madurai in unnumbered OP filing No./5401/2020 under Section 13-B of the Hindu Marriage Act.

2. Brief facts of this case are that the marriage between the revision petitioners was solemnized on 29.08.2018 as per the Hindu rites and customs. Out of wedlock there were no issues. There arose the difference of opinion between the petitioners and therefore, they are separated from each other for the more than two years. Now, they understand that it is not possible to live together and without coercion or inducement of others, they are decided to separate and therefore, they filed petition under Section 13-B of the Hindu Marriage Act for mutual divorce on 15.12.2020. But the same was returned on 31.12.2020. Even after rectifying the queries, the Court below returned the case bundle without numbering the petition questioning the jurisdiction. The grievance of the petitioners are that the revision petitioner resided lastly at Madurai District which comes under the jurisdiction of the Court and necessary documents are also filed to that effect. But the trial Court has not consider the same and



returned the same as the petitioners are living separately for more than two years and to decide their future, they thought it fit to file the petition and accordingly, they have filed the petition.

3. This Court directed the petitioners to present before the Court and they were present before the Court today on 15.02.2021 and they had stated before this Court that the difference of opinion between them cannot be sorted out and therefore, they have decided to separate and they have filed the petition.

4. Heard the learned Counsel for the revision petitioners and perused the materials placed before this Court.

5. Admittedly in the present case the revision petitioners had separated for more than two years and both the parties were present before this Court and they have also stated about their decision. Where the minds had not united there is no reason to keep their marriage alive. The parties are genuinely sought for mutual divorce and they do not have any issues. If the Court does not entertain their petition and if they are running pillar to post on technicalities, the waiting period will only prolong their agony. The Court below has returned the papers on the point of jurisdiction. Admittedly, the first petitioner has also produced the Aadhar card for proof of residence before the Court and they have specifically averred in the affidavit that both of them had lastly resided in Madurai and therefore, this Court exercising its discretion in the facts and circumstances of the present case and also finding that there is no possibility of parties resuming cohabitation, this Court directs the learned Judge to number the unnumbered HMOP filing No./5401/2020 and dispose of the same on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

6. With the above direction, this Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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To

1. The Judge, Family Court,
Madurai.

2. The Section Officer-2 copies
VR Section,
Madurai Bench of Madras High Court, Madurai.

Copy to

The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.M.MARAN, Advocate (SR-5414[F] dated 16/02/2021)

C.R.P. (MD) No.157 of 2021
15.02.2021

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