



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2021

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THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

C.R.P(MD) No. 1134 of 2021

1. Bharath
2. Divya

... Petitioners/Petitioners/Petitioners
Vs.

Nil

...Respondent/Respondent/Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal order, dated 02.07.2021 passed by the Sub-Court, Aranthangi in I.A. No.27 of 2021 in H.M.O.P. No.32 of 2021.

For Petitioner : Mr.T. Lenin Kumar

O R D E R

The Civil Revision Petition has been filed to set aside the fair and decreetal order in I.A. No.27 of 2021 in H.M.O.P. No.32 of 2021, dated 02.07.2021 passed by the learned Subordinate Judge, Aranthangi.

2.The learned counsel for the petitioners would submit that the petitioners have filed a petition under Section 13-B of the Hindu Marriage Act seeking for divorce by mutual consent and they have also filed a petition to waive the statutory period under Section 13-B(2) of the Act.

3. The marriage was solemnized on 11.11.2018 and after few months of marriage the parties have got separated. The petition has been filed on 15.04.2021 after the statutory period of six months specified in Section 13-B(2), in addition to the statutory period of one year under Section 13-B(1) of separation of parties has also been over. Further, the first petitioner has earlier filed a divorce petition in HMOP No.42 of 2000 and during the pendency of the petition mediation and conciliation efforts were taken by the well-wishers and family members and that has also ended in failure. Later due to the intervention of the family members, the parties have genuinely agreed for separation and exchanged all articles. The petitioners have exhausted all options and there is no possibility of reunion also. They do not have any children.

4. Finding that further waiting period of six months will prolong their agony they have filed the petition seeking for waiver. The case of the petitioner rightly falls within the conditions prescribed by the Hon'ble Apex Court in the Judgment in **Amardeep Singh Vs. Harveen Kaur** reported in **2017 (5) CTC 665**, whereas the learned Judge without taking into consideration the above facts and circumstances, had dismissed the petition.



5. Heard the learned counsel for the petitioner and perused the materials available in records.

6. The Hon'ble Supreme Court in the case **Amardeep Singh Vs. Harveen Kaur** (cited supra) has held that the period mentioned in section 13-B(2) is not mandatory, but it is only directory and it will be open to the concerned Court to exercise its discretion in the facts and circumstances of the each case, where, there is no possibility of parties resuming cohabitation and chances of alternative rehabilitation have also been exhausted.

7. In this case the petitioners got married on 11.11.2018 and after few months of marriage they got separated. Despite steps taken there is no chance of re-union between the parties. This Court is of the opinion that allowing them to continue further will prolong their agony.

8. In view of the same, the Civil Revision Petition stands allowed and the order dated 02.07.2021 passed by the Subordinate Judge, Aranthangi, in I.A.No.27 of 2021 in HMOP.No.32 of 2021 is set aside and I.A.No.27 of 2021 in HMOP. No.32 of 2021 stands allowed. The learned Subordinate Judge, Aranthangi, is directed to take up and dispose HMOP. No.32 of 2021 filed for divorce by mutual consent, immediately after enquiring both the parties.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Sub-Court,
Aranthangi.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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MGJ(08.09.2021) 2P 4C

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