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CRP. Nos.545 and 546 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP. Nos.545 and 546 of 2018

B.Dinesh

...Petitioner /1st Respondent/Petitioner
(in both petitions)

Vs.

1.D.Kranthi

...Respondent/Petitioner/1st Respondent
(in both petitions)

PRAYER in CRP No 545 of 2018: This Civil Revision Petition is filed under Section 115 of CPC praying to set aside the common Judgement dated 14.12.2017 passed in I.A Nos. 17 of 2017 & 18 of 2017 in HMOP No. 74 of 2015 and the decree dated 14.12.2017 passed in I.A No.17 of 2017 in HMOP No.74 of 2015 on the file of the Sub Court, Arakkonam.

PRAYER in CRP No 546 of 2018: This Civil Revision Petition is filed under Section 115 of CPC praying to set aside the common Judgement dated 14.12.2017 passed in I.A Nos. 17 of 2017 & 18 of 2017 in HMOP No. 74 of 2015 and the decree dated 14.12.2017 passed in I.A No.18 of 2017 in HMOP No.74 of 2015 on the file of the Sub Court, Arakkonam.



CRP. Nos.545 and 546 of 2018

For Petitioner : Mr.N.Manokaran
(both Petitions) for P.Krishnan

For Respondent : Mr.V.Ramana Reddy
(both Petitions)

COMMON ORDER

This Civil Revision petition has been filed to set aside the common Judgement dated 14.12.2017 passed in I.A Nos. 17 of 2017 & 18 of 2017 in HMOP No. 74 of 2015 and the decree dated 14.12.2017 passed in I.A No.17 of 2017 in HMOP No.74 of 2015 on the file of the Sub Court, Arakkonam.

2. This Civil Revision petition has been filed to set aside the common Judgement dated 14.12.2017 passed in I.A Nos. 17 of 2017 & 18 of 2017 in HMOP No. 74 of 2015 and the decree dated 14.12.2017 passed in I.A No.18 of 2017 in HMOP No.74 of 2015 on the file of the Sub Court, Arakkonam.

3. The petitioner herein is the husband and respondent is the wife.

4. The brief facts of the case is that the petitioner being the husband of the respondent filed HMOP No. 74 of 2015 against the respondent for the relief of divorce and the respondent also engaged the lawyer, however she



CRP. Nos.545 and 546 of 2018

was not able to contest the suit despite giving several adjournments hence the respondent remained exparte on 21.09.2016 and the exparte order passed on 11.11.2016. Thereafter, the petitioner herein got married on 15.03.2017. In the meanwhile, respondent filed I. A Nos. 17 and 18 of 2017 to condone the delay of 89 days in filing the application from the date of exparte decree dated 11.11.2016 and to set aside the exparte order dated 11.11.2016 and the same was allowed by the Trial Court below with cost.

5. Challenging the said findings the husband filed this Civil Revision Petition.

6. On perusal of records, it reveals that the respondent remained exparte on 21.09.2016 and the exparte order passed on 11.11.2016 in H.M.O.P No. 74 of 2015. But the respondent not filed application within 30 days. Thereafter, the respondent filed I.A Nos.17 and 18 of 2017 to set aside the exparte order and to condone delay of 84 days and the same was allowed on 14.12.2017. Considering facts and circumstances of the case, the respondent filed application to set aside the exparte order and to condone the delay in H.M.O.P No.74 of 2014 but in the meanwhile the petitioner got married on 15.03.2017. Furthermore, this Court noticed that, inspite of



CRP. Nos.545 and 546 of 2018

several adjournments she has not contested the proceedings, it proves that she is not interested to proceed with the matter. In the meanwhile, the learned counsel for the petitioner also submitted that wife has initiated maintainance case before the same Court in M.C No. 6 of 2016. This Court is of the view that, she has to work out her remedy for the maintainance before the Trial Court. With regard to I.A Nos.17 and 18 of 2017 in HMOP No.74 of 2015 is concerned the findings rendered by the Trial Court is hereby set aside for the reason that the conduct of the respondent shows that she is not really intended to proceed with the case and her intention is only to drag on the proceedings. But the Trial Court failed to take note of this fact which needs interference.

6. In the result, these Civil Revision Petition is allowed. No costs.

27.10.2022

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T.V.THAMILSELVI,J.

Pbl

To

1. The Sub Court, Arakkonam.

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