



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.08.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (PD) No.2528 of 2022

B.Jothi Prasad

...

Petitioner

versus

J.Saranya

...

Respondent

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 06.04.2022 made in I.A.No.275 of 2021 in H.M.O.P.No.313 of 2021 pending on the file of the learned Subordinate Judge, Alandur.

For Petitioner

: Mr.R.Radha Pandian

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned Subordinate Judge, Alandur, dated 06.04.2022 made in I.A.No.275 of 2021 in H.M.O.P.No.313 of 2021.

2. The revision petitioner is the husband who has filed the original petition in H.M.O.P.No.313 of 2021 for the relief of restitution of



conjugal rights. When the Original Petition pending, he also filed another petition in I.A.No.275 of 2021 to withdraw the proceedings and the said petition was dismissed. Aggrieved over that, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel for the revision petitioner submitted that the husband has filed the original petition for restitution of conjugal rights in the year 2017 before the Sub Court, Tambaram in H.M.O.P.No.907 of 2017 and later got it transferred to the file of the Sub Court, Alandur in H.M.O.P.No.313 of 2021. Despite the case is pending for four years, there is no symptoms for reunion and hence he wanted to withdraw the proceedings. However the learned trial Judge had chosen to disallow the petition without considering the difficulties of the petitioner.

4. The records would show that when the petition to withdraw the proceedings was filed, another petition was filed by the wife in I.A.No.144 of 2021 and that is pending for interim maintenance. Subsequent to that the petitioner has filed this petition to withdraw the proceedings. The petition filed in I.A.No.144 of 2021 is to decide the valuable right of the



respondent for claiming interim relief, litigation costs and other expenses.

Without allowing the Court to decide the petition filed for interim maintenance the petitioner cannot choose a short cut and file a petition to withdraw the entire proceedings.

5. The learned trial Judge has relied on the recent judgment of the Gujarat High Court held in ***Pratapbhai V. Trivedi vs. Priyamvada @ Ghamu Pratapbhai*** reported in ***II (1993) DMC 25***, wherein it is observed that the petitioner cannot be permitted to withdraw the proceedings; and that would deprive the respondent from getting relief under Section 24 of the Hindu Marriage Act. Since the learned trial Judge has chosen to dismiss the petition in view of the petition filed and pending for interim maintenance, I do not find any ground for interference. However, the revision petitioner is at liberty to file a fresh application for withdrawal of the proceedings, if he so advised after the petition filed for interim maintenance is disposed off.

6. In view of the above stated reasons, this Civil Revision Petition is dismissed and the order dated 06.04.2022 passed by the learned



Subordinate Judge, Alandur in I.A.No.275 of 2021 in H.M.O.P.No.313 of
2021 is hereby confirmed. No costs.

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10.08.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

sri

To

The Subordinate Judge, Alandur.



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C.R.P. (PD) No.2528 of 2022



R.N.MANJULA, J.

sri

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