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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (PD) No.2557 of 2022

Kalyani

...

Petitioner

versus

Arumugam K

...

Respondent

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, to direct the learned Judge, Family Court, Chennai to number the O.P.SR.No.2602 of 2022 pending on its file in a time bound manner.

For Petitioner : M/s.B.Poongkhulali

ORDER

This Civil Revision Petition has been filed seeking for a direction to the learned Judge, Family Court, Chennai, for the speedy disposal of the petition filed in O.P.SR.No.2602 of 2022 for dissolution of marriage.



2. The learned counsel for the revision petitioner submitted that the petitioner is a hearing and speech impaired person with 100% hearing impairment. Since the respondent went missing and deserted her subsequent to the marriage, she was forced to file a petition for dissolution of marriage but the petition is being returned on several occasions for the reasons that cannot be complied by the petitioner and hence, a direction has to be given to take the petition on file.

3. It is seen from the written endorsement of the learned Judge, Family Court, Chennai, the petition was returned for the following reasons;

- “1.Marriage photo to be put as one of the document.
 - 2.Marriage invitation to be put as one of the document.
 - 3.Last page endorsement to be signed by the Petitioner.
 - 4.Petitioner photo to be affixed in this Petition.
- Hence returned. Time one month.”

4. Thereafter, the learned counsel for the revision petitioner represented the petition by making the following remarks:

“The petitioner submits as follows:



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1.The marriage between the petitioner and the respondent was solemnized on 23.08.2009. She bore all the marriage expenses herself and could not afford to hire a photographer. None of the family members had smart phones or cameras to take pictures of the marriage either. The circumstances surrounding this has been highlighted in paragraphs no.7 and 20 of the petition.

2.The petitioner states that the marriage was solemnized on 23.08.2009, and she has shifted her house many times since, she is unable to locate the invitation.

The marriage has been registered, and the registration certificate has been filed. The Aadhar card of the petitioner also shows that her husband is Arumugam. The same is document 4.

Thus it is submitted that not filing the invitation and photographs is neither wilful nor wanton, and the present petition may be numbered.

3.Complied with.

4.Complied with.

Hence re-presented.”

5. Thereafter, the matter stood posted for maintainability and for clarification and so on. In fact, on 15.06.2022, the matter seems to have been heard on maintainability and it was posted for orders on 22.06.2022. Once again, the matter opened was for clarification on 22.06.2022 and 23.06.2022 and then on 29.06.2022, the Court recorded the absence of the petitioner. It is difficult to understand how the learned Judge, Family Court, Chennai, would insist for production of the photographs when



the petitioner says that she had no occasion to take any photograph with the respondent and it is not available.

6. Having complied the return remarks 3 and 4 and given explanation with returned remarks 1 and 2 and represented the petition, the petitioner would have rightfully expected that the petition would be taken on file. But once again the matter was posted for clarification in respect of the production of C.S.R.

7. It is submitted that the petitioner had given a complaint stating that her husband was missing and she has also produced a copy of C.S.R. as Serial No.2 along with the petition. When the marriage registration certificate is produced as one of the document along with the petition in Serial No.1, there would not have been any difficulty for the Court to take the matter and decide it on merits.

8. Even if any acceptable reasons the Court needs the C.S.R. file, that can be called for from the concerned police. When the petitioner has produced *prima facie* documents to show her marriage with



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the respondent and also raised sufficient averments with regard to grounds of cruelty and desertion, the learned Judge, Family Court, Chennai ought to have taken the matter on file and then decided it on merits. The petitioner has made out a *prima facie* case and also produced the *prima facie* documents and hence, there is no difficulty for the learned Judge to take the matter on file, if otherwise in order.

9. In the result, this Civil Revision Petition is allowed. The learned Judge, Family Court, Chennai, is directed to take the original petition in O.P.SR.No.2602 of 2022 on file and issue notice to the respondent and proceed with the matter. No costs.

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Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

sri

To

The Family Court, Chennai.

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R.N.MANJULA, J.

sri

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