



C.R.P.No.2394 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.R.P.No.2394 of 2021

and

Crl.M.P.Nos.18178 & 17807 of 2022

S.Prema @ Sariga,
W/o.E.Sivasankar,
31/2, Jawaharlal Nehru Road,
Mount Poonamallee Road,
Ekkattuthangal, Chennai 600 032.

.. Petitioner

Vs.

E.Sivasankar,
S/o.A.Elumalai,
166, West Namasivayapuram,
Choolaimedu, Chennai 600 094.

.. Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and Decretal Order passed in I.A.No.2 of 2020 in O.P.No.3957 of 2016 dated 24.09.2021 on the file of the Principal Family Court at Chennai.

For Petitioner : Mr.P.Sunil Alias Sunil Prakash

For Respondent : Mr.A.Muthu Subramanian
for Mr.S.Namasivayam



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ORDER

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This Civil Revision Petition has been filed to set aside the fair and Decreetal Order passed in I.A.No.2 of 2020 in O.P.No.3957 of 2016 dated 24.09.2021, on the file of the learned Principal Judge, Family Court at Chennai.

2.The Revision Petitioner is the Petitioner in I.A.No.2 of 2020 in O.P.No.3957 of 2016. The said OP was filed by the Respondent herein, for dissolution of marriage before the learned Principal Judge, Family Court, Chennai. The Revision Petitioner filed a counter affidavit and both the parties went for trial. Thereafter, the Revision Petitioner filed I.A.No.2 of 2020, seeking for a direction to the Respondent to hand over the original educational mark sheets and original certificates to her. The learned Principal Judge, Family Court, Chennai, by order dated 24.09.2021 dismissed the said application.

3.The main grievance of the Petitioner is that on 16.09.2021, she was not present in the Court and her absence was already recorded in the notes paper on 16.09.2021. However, in the orders dated 24.09.2021, the learned Principal Judge, Family Court, Chennai has mentioned as if the



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Petitioner was present on 16.09.2019. It is appropriate to extract the relevant portion in the order passed in I.A.No.2 of 2020 in O.P.No.3957 of 2016. O.P.No.3957 dated 24.09.2021 as follows:

“This Petition came up for final hearing before me on 16.09.2019, in the presence of the Petitioner and the Respondent, upon perusing the Petition, counter and other connected material papers on record, upon hearing the arguments of both parties and having stood over for consideration till this date, this Court delivered the following:”

It is also appropriate to extract the relevant portion in notes paper made on 16.09.2021 in OP.No.3957 of 2016 as follows:

“Petitioner present, pass over at 11.00 am (at request Petitioner after lunch) taken up 3.00 pm, Petitioner present, Respondent absent (from April 2021 to August 2021 amount paid) Respondent absent till 5.40 pm. PW1 cross closed, for further Petitioner side evidence if any, call on 24.09.2021.”

4.The respondent mentioned above is the present Revision Petitioner. Thus it is seen from the records that even without hearing arguments on the side of the Petitioner in I.A.No.2 of 2020, the learned Principal Judge, Family Court has passed an order on 24.09.2021.



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Therefore, in the interests of justice, the order passed by the learned Principal Judge, Family Court, Chennai dated 24.09.2021 in I.A.No.02 of 2020 in O.P.No.3957 of 2016 is set aside and the learned Principal Judge, Family Court, Chennai is directed to take I.A.No.02 of 2020 in O.P.No.3957 of 2016 on file and decide the same on merits, after giving sufficient opportunities to both the parties. Since the OP is of the year 2016, the learned Principal Judge, Family Court, Chennai is directed to dispose the main OP, as expeditiously as possible, from the date of receipt of a copy of this order.

5. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.11.2022

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Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order



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To
The learned Principal Judge,
Family Court,
Chennai 600 104.



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R.HEMALATHA, J.

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