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C.R.P.No.3827 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3827 of 2022

1.L.Anandaraj

2.T.Jenifer Ranjitha Mary

... Petitioners

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair order and final order passed in I.A.No.3 of 2022 in I.D.O.P.No.224 of 2022 on the file of the Principal District Judge, Thiruvallur, Thiruvallur District.

For Petitioner : Mr.J.Titus Enock

ORDER

The petitioners herein filed this revision challenging the order passed by the Court below dismissing their petition seeking waiver of six months waiting period under Section 10(A) of the Indian Divorce Act.

2. According to the petitioners, the marriage between them had taken place on 10.05.2008. It is specifically stated by the petitioners in their petition seeking



divorce by mutual consent that though they lived under the same roof, there was no cohabitation between them and there was no possibility of continuing the marital tie. It was further averred that they mutually agreed to dissolve the marriage by mutual consent. It was further averred that the 1st petitioner had vacated the house and started staying along with his relatives. Therefore, it is seen from the averments found in the petition that there has been no cohabitation between the parties from the inception of marriage. Therefore for all practical purpose they having been living apart without matrimonial cohabitation for the period of three years, the petitioners have filed a petition seeking divorce by mutual consent on 12.07.2022.

3. In view of the fact that the parties never lived together with meaningful cohabitation from the date of marriage, the six months period mentioned under Section 10 (A) of the Indian Divorce Act, need not be insisted. The Court below dismissed the petition filed by the petitioners mainly on the ground that the waiver of six months waiting period can only be in exceptional circumstances and petitioners have not made out the case for waiver of waiting period of six months.

4. In the case on hand , in the petition filed for divorce by mutual consent, the petitioners had averred that they never had cohabitation after the date of marriage. Therefore, from the inception the petitioners have been living apart without any



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cohabitation. In these circumstances, the six months waiting period mentioned under Section 10(A) (2) of the Indian Divorce Act, cannot be insisted.

Consequently, the order impugned in this revision is set aside and the Court below is directed to advance the hearing and consider the petition for divorce filed by the petitioners on the ground of mutual consent without insisting for six (6) months waiting period. Accordingly, this Civil Revision Petition is allowed. No costs.

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Index: Yes/ No
Speaking Order / Non-Speaking Order
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To

The Principal District Judge,
Thiruvallur, Thiruvallur District.



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S.SOUNTHAR, J.

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