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Order dated : 05.12.2022
Civil Revision Petition.(PD).No. 4031 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.R.P.(PD).No. 4031 of 2022

Lakshmi Raja Synthiya

... Petitioner

Vs.

E.Suresh Kumar

...Respondent

PRAYER: Petition filed under Article 227 of the Constitution of India praying to direct the Subordinate Court, Pollachi to expedite the trial of H.M.O.P. No. 144 of 2016 and dispose the same, within certain time.

For Petitioner : Mr. B.Jawahar

ORDER

This Civil Revision Petition has been filed to direct the Subordinate Court, Pollachi to expedite the trial of H.M.O.P. No. 144 of 2016 and dispose the same.

2. The grievance of the revision petitioner is that the H.M.O.P. No. 144 of 2015 filed by the Petitioner -Wife for dissolution of marriage is kept pending for



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about 6 years and the Respondent-Husband is prolonging the case one way or other and by adopting some tactics.

3. The Respondent allowed the trial court to pass an order of exparte and thereafter filed a petition to set aside the exparte order and after restoration, again keeping the matter is pending for long years. At the outset, it is contended that the respondent is prolonging and protracting the case without any valid reason.

4. When a Government servant or Court employee is died, while in service, all the amount due to them are settled without any loss of time. They are not only receiving good amount of benefits, but also appointments on compassionate grounds. While so, such government servants /Court employees, while dealing with the public grievances, must have the same yardstick and understand the difficulties and feeling of those families, who lost their livelihood on account of the death of the breadwinner of the family. If that kind of approach is not made, then the public servants are not performing their duties diligently and in the interest of public. Decent salary has been paid to the public servants including judicial officers. Various perquisites are provided to the judicial



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officers. Thus, they are expected to serve in a better manner at least in such nature of cases, where the victim died and their family is struggling to survive.

There is no reason to grant unnecessary adjournments. Few greedy litigants may make an attempt to prolong and protract the litigations. However, Courts should not pave way for such ideas of the litigants. In a litigation, either of the party may have some inconvenience and may make an attempt to lengthen the case for their benefits. Sometimes a particular Court may not suit them or the issues may not be in their favour. There are variety of reasons for taking unnecessary adjournments, leading to longevity of the litigations without any valid reasons. But, the Courts are expected to be vigilant and dispose of the cases, considering the nature of urgency and plights of the litigants, who all are approaching the court of law.

5. Interpreting the un-amended provisions of Order XVII Rule 1 of the Code of Civil Procedure, the Hon'ble Supreme Court of India in the case of ***Thakur Sukhpal Singh V. Thankur Kalyan Singh and another reported in A.I.R. 1963 S.C. 146***, held thus:

“17. ...it is a matter within the discretion of the Court to allow an adjournment and such a discretionary order is, ordinarily, not a matter for the consideration of this Court in an appeal under Article 136 of the Constitution. The petition for special



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leave did not mention this contention among the grounds of appeal. No special reasons exist for our entering into this contention. The order under appeal gives adequate reasons for rejecting the application for adjournment.”

From the aforesaid discussion, it can safely be concluded that even prior to amendments in the Code of Civil Procedure in 1976, 1999 and 2002, the provision for adjournment has been seriously taken note of in the Codes of 1882 and 1908 **and the Courts also has given strict interpretation to the provisions for adjournment**

In the year 1976 certain amendments were made in the Code of Civil Procedure, deleting some of the existing provisions and substituting with new provisions, with the object of not only reducing the pendency, but also providing speedy trial of the Civil Suits and other proceedings. But those amendments did not give adequate results.”

6. The amended provisions clearly stipulates that

1. It is not enough if a cause is shown for adjournments, but it must be a sufficient cause.
2. The number of adjournments is limited to three, the exception being the



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circumstances beyond the control of the party.

3. While adjourning the case, Court cannot do it indefinitely, but must fix the next date of hearing.
4. Adjournment is not automatic and the Court is bound to make the orders as to cost occasioned by the adjournments.
5. Court is also empowered to make higher cost as the Court deem fit apart from the cost occasioned by the adjournments.

7. The National Litigation Policy as well as the State Litigation Policy unambiguously states that such routine adjournments are to be averted. The litigation policies both at the National Level and the State Level curbs the grant of adjournments in a routine manner without assigning any reason by the Courts.

8. Therefore, the Courts, while granting adjournments, must consider the genuinity of the reasons pleaded between the parties. Such reasons are to be recorded and routine adjournments on flimsy grounds, at no circumstances, be entertained not only in the interest of all the parties, but also in public interest. In Motor Accident Claims Cases, the plight of the victims are to be considered,



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which is of paramount importance, since in the present case, the victim died and he being the bread winner of the family, the Court concerned is expected to dispose of the case at the earliest possible. Priority is to be granted in such nature of cases, where a person died in an accident and was a breadwinner of the family.

9. The learned counsel for the petitioner made a submission that the petitioner is a house wife and not having any source of income. Long pendency of litigation would cause extreme hardship to the petitioner-wife, who has to take care of her two children, who are school going.

10. Taking note of the facts and circumstances, the Subordinate Court, Pollachi is directed to expedite the trial and dispose of the H.M.O.P.144 of 2016 within a period of three months from the date of receipt of a copy of this order. The parties are directed to co-operate for the early disposal of the H.M.O.P.

11. In the event of any non co-operation on either of the parties, the same shall be recorded by the trial court and such party is not entitled to claim thereafter for any relief merely based on the delay in disposal of the H.M.O.P.



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12. Accordingly, this Civil Revision Petition stands allowed. No costs.

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Index : Yes

Internet : Yes

Speaking order

Maya

To

The Subordinate Judge
Pollachi.



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S.M.SUBRAMANIAM., J

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