



CRP .No.1314 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2023

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THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

CRP No.1314 of 2022
and
C.M.P.No.6950 of 2022

Vijay Krishnamoorthy

... Petitioner

-Vs-

Archana Kumari Tiwari

... Respondent

PRAYER : Civil Revision Petition filed under Art. 227 of Constitution of India, praying to set aside the I.A.No.2/2021 in O.P.No.206 of 2018 in Docket order dated 22.12.2021 on the file of the III Additional Family Court at Chennai.

For Petitioner : Mr.A.P.Loganathan

For Respondents : Ms.SM.Kothari Muthu Meenal

ORDER

This Civil Revision Petition has been filed to set aside the docket order made in I.A.No.2/2021 in O.P.No.206 of 2018 dated 22.12.2021 on the file of the III Additional Family Court at Chennai.



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2. The revision petitioner herein is the husband. Originally OP.No.206 of 2018 was filed by the revision petitioner/husband seeking for divorce. Summon served, but the respondent/wife was not appeared and subsequently, she was set exparte. Thereafter, the respondent filed an application to set aside the exparte decree in I.A.No.2 of 2021 through her father. The said application was posted for various hearings and finally, as counter not filed, the petition was allowed.

3. On seeing the docket order passed by the Trial Court, it is seen that on 22.12.2021 the petitioner was absent before the Trial Court and the power agent to the respondent also absent. Counter not filed.

4. The learned counsel for the petitioner submits that he is having valid objection, but without considering his objection, the said petition was allowed.

5. As rightly pointed out by the learned counsel for the respondent, after taken on file the said application, the Trial Court has given adjournments, but the counter was not filed. On the date of passing of order on 22.12.2021 before the trial Court, the petitioner was also not appeared. Therefore, if at all and if no opportunity is given to raise objections, valid



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defence will be defeated. Therefore, the docket order dated 22.12.2021 passed by the learned III Additional Family Court Judge, Chennai made in I.A.No.2 of 2021 is hereby set aside and the Revision petitioner is directed to file his objections within a period of six(6) weeks from the date of receipt of a copy of this order. The learned IIIrd Additional Family Court Judge, Chennai is directed to dispose of the case on merits after giving opportunity to both the petitioner and the respondent.

6. This Civil Revision Petition is disposed of with the above directions. There shall be no order as to costs. Consequently, connected CMP is also closed.

31.03.2023

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To

1. The III Additional Family Court,
Chennai.



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T.V.THAMILSELVI, J.

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