



C.R.P. No.1413 of 2019 and
C.M.P. No.9287 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM: JUSTICE N.SESHASAYEE

C.R.P. No.1413 of 2019 and C.M.P. No.9287 of 2019

P.Kannan

... Petitioner

Vs.

S.Kavitha

... Respondent

PRAYER: The Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 08.02.2019 passed in I.A. No.1 of 2019 in O.P. No.1829 of 2017 on the file of VII Additional Family Court, Chennai.

For Petitioner : Mr.K.S.Jeyaganeshan

For Respondent : T.Venkatesan

ORDER

The revision petitioner herein is the petitioner in O.P. No.1829 of 2017 on the file of VII Additional Family Court, Chennai. The said OP was laid for dissolution of his marriage with the respondent under Section 13(1)(a) of the Hindu Marriage Act.

2. This court is informed that close to two years, the respondent has not filed



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her written statement to the OP following which she was set ex-parte on 03.01.2019 and ex-parte evidence of the partitioner was recorded by the trial court on 25.01.2019. For reasons not adequately clear, the matter was then adjourned to 27.02.2019. In the meantime, on 27.02.2019, the respondent had taken out an application in I.A. No.1 of 2019 for advancing the hearing of the OP from 27.02.2019 to an earlier date and that was allowed. This order advancing the OP No.1829 of 2017 from 27.02.2019 is in challenge in the civil revision petition.

3. Heard Mr.K.S.Jeyaganeshan, learned counsel for the revision petitioner. There is no representation for the respondent.

4. The learned counsel for the revision petitioner submitted that in fitness of things, the respondent ought to have filed an application for setting aside the ex-parte order but she opted not to do the same. Now her application in I.A. No.1 of 2019 for advancing the hearing was laid without any locus standi.

5. Procedurally, the contention of the revision petitioner cannot be faulted. But



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what it unfortunately had achieved was to keep the whole proceedings pending for the last four years before the Family Court. This court now requires the Family Judge to look into the same issue as to whether the respondent has filed any application for setting aside the ex-parte order, and if so, take up that application first. It must be underscored that in so doing, the learned Family Judge is also required to take note of the statement made before this court that the respondent has not filed any written statement for the last six years.

6. With the above observation, the civil revision petition is disposed of. No costs. Consequently, the connected civil miscellaneous petition is closed. The learned VII Additional Judge, Family Court, Chennai is required to expedite the disposal of O.P. No.1829 of 2017.

09.03.2023

Asr

To
The VII Additional Judge, Family Court, Chennai

Note to office:

Issue order copy on
13.03.2023

N.SESHASAYEE, J.,



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