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C.R.P.Nos.2482 & 2529 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2023

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.Nos.2482 and 2529 of 2023
and C.M.P.Nos.15413 and 15659 of 2023

G.Anand

...Petitioner in both C.R.Ps

Versus

G.M.Moneesha
C.R.Ps

... Respondent in both

Common Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the order dated 07.01.2023 in I.A.Nos.3 and 4 of 2022 in H.M.O.P.No.35 of 2022 on the file of the Sub Court, Nagapattinam.

In both C.R.Ps:

For Petitioner : Mr.D.Senthur Kugan

For Respondent : Mr.Pragadeesh Kumar

COMMON ORDER

Inasmuch as both the instant cases emanate from the orders passed



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in HMOP.NO. 35 of 2022 and also due to the inter connectivity of the issues involved, these Civil Revision Petitions are considered and decided by this common order.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the records.

3. These Civil Revision Petitions are filed seeking to set aside the orders dated 07.01.2023 in I.A.Nos.3 and 4 of 2022 in HMOP No.35 of 2022 on the file of the Sub Court, Nagapattinam.

4. The marriage between the petitioner and the respondent was solemnized on 11.04.2016 and registered on 13.04.2016 in the Sub Registrar's Office, Tirukuvalai. While the petitioner filed HMOP No.35 of 2022 on the file of the Sub Court, Nagapattinam, against the respondent for restitution of conjugal rights, the respondent filed O.P.No.50 of 2020 before the Family Court, Nagapattinam, against the petitioner seeking divorce under Section 12(1)(c) of the Hindu Marriage Act, 1955. The petitioner also filed Interlocutory Application in I.A.Nos.1 and 2 of 2022 in HMOP No.35 of 2022 to recall and examine PW1 (himself) to mark



additional evidence and the same were allowed vide separate orders dated 28.09.2022. Subsequently, the petitioner filed Interlocutory Applications in I.A.Nos.3 and 4 of 2022 to recall and examine PW1 (himself) to mark additional evidence and both the Interlocutory Applications were dismissed by the Trial Court vide orders dated 07.01.2023. Aggrieved by the dismissal of I.A.Nos. 3 and 4 of 2022, the husband has preferred these Civil Revision Petitions.

5. On perusal of records, it is seen that I.A.No.3 of 2022 was filed under Order XVIII Rule 17 and Section 151 C.P.C., seeking to recall P.W.1 in order to mark certain documents through him and I.A.No.4 of 2022 was filed under Order VII Rule 14(2) and Section 151 C.P.C., to mark additional documents.

6. The Trial Court had initially taken up I.A.No.4 of 2022 for consideration. While deciding I.A.No.4 of 2022, the following points weighed in the mind of the Trial Court.

- a) There are no convincing reasons assigned in the affidavit for filing the Interlocutory Application belatedly.
- b) There was no prayer to condone the delay in filing the



Interlocutory Application.

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c) The petitioner has not whispered anything about the documents sought to be marked in his evidence.

d) Only with an intent to protract the case in HMOP No.35 of 2022, the petitioner has filed Interlocutory Applications one after the other.

7. On the above four grounds, the Trial Court has dismissed the I.A.No.4 of 2022 and based on the said order, the Trial Court has proceeded to dismiss the other Interlocutory Application, viz., I.A.No.3 of 2022 also.

8. This Court scanned through the order passed in I.A.No.4 of 2022 thoroughly and carefully. In the considered opinion of this Court, the Trial Court has given convincing and cogent reasons adverted to in para 7 (supra) to dismiss the application in I.A.No.4 of 2022. Furthermore, it is to be seen that the documents sought to be marked are not numbering 1 or 2 for the petitioner to have forgotten at the time of filing I.A.Nos.1 and 2 of 2022. On the contrary, the number of documents sought to be marked is a whopping figure, viz., 196. This Court is really at a loss to understand as to why this was omitted to be marked by the petitioner during the chief



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examination and instead, sought to be marked by way of additional documents. Thus, as rightly observed by the Trial Court, this Court is of the view that what the petitioner has done is nothing short of dilatory tactic in order that the case in HMOP No.35 of 2022 moves at a snail's pace.

9. In view of the foregoing discussion, this Court does not find any reason whatsoever warranting interference with the well-considered orders passed by the Trial Court in I.A.Nos.3 and 4 of 2022.

10. As a sequel, both the Revision Petitions fail and accordingly, they stand dismissed. Consequently connected miscellaneous petitions are closed. No costs.

19.07.2023

Index : Yes/No

Speaking order : Yes/No

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V.BHAVANI SUBBAROYAN, J.

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To

The Sub Court, Nagapattinam.

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