



C.M.A.No.1827 of 2021
& C.R.P.No.3028 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE D.BHARATHACHAKRAVARTHY**

**C.M.A.No.1827 of 2021
& C.M.P.Nos.9818 & 17687 of 2021
and
C.R.P.No.3028 of 2022
& C.M.P.No.16342 of 2022**

C.M.A.No.1827 of 2021

Hemalatha ... Appellant
Vs.

N.Rajasekar ..Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 against the judgment and decree passed by the leaned Family Court, Vellore, Vellore District in F.C.O.P.No.181/2019 by order dated 17.04.2021.

For Appellant : Mr.E.Kannadasan

For Respondent : Mr.R.Mohandoss



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C.R.P.No.3028 of 2022

C.Hemalatha

..Petitioner

vs.

N.Rajasekar

..Respondent

Civil Revision Petition filed under Article 227 of the constitution of India. Against the fair and decretal order passed by the learned Principal District Judge, Vellore, Vellore District in I.A.No.1/2022 in G.W.O.P.No.82/2021 by order dated 08.07.2022.

For Petitioner : Mr.R.Vasudevan

For Respondent : Mr.R.Mohandoss

COMMON JUDGENT

1. (i) The C.M.A.No.1827/2021 is filed against the judgment and decree of the learned Family Court, Vellore in F.C.O.P.No.181/2009, whereby granting divorce on the petition filed by the husband on the ground of cruelty.

(ii) C.R.P.No.3028 of 2022 is filed as against the order in I.A.No.1/2022 whereby the Interlocutory Application was allowed on condition, for recall of the respondent/wife for cross examination on payment on costs of Rs.5,000/-. Since both the matters are between the same parties, both are taken up together.



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2. At the outset, before proceeding to hear the parties on merits, this Court directed both the parties to be present and interacted with the parties. After interaction, on the question of rejoining, there was no willingness on the part of both the parties. In that background, we have posted the matter before the open court again, for arguments.

3. Heard the submissions made by the learned counsel on both sides.

4. The primary concern of the respondent/wife, who is the appellant, is that without co-operating for the guardianship application and maintenance petition filed by her in M.C.No.72/2014 which is also pending, only the divorce petition alone was conducted by the husband and therefore, she would pray that even if any further opportunity is granted, both the Guardianship O.P. and the Maintenance Application has to be taken up on an early date and dispose of on merits and the respondent /husband should co-operate for the same.

5. Learned counsel for the respondent/husband submitted that if the matter is remanded back in respect of the custody and maintenance, the husband will co-operate and he is ready to conduct the case on merits at the early date.



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6. In that view of the matter, both C.R.P and C.M.A are disposed of on the following terms.

(i) C.M.A.No.1827/2021 is dismissed and the order passed by the learned Family Court, Vellore, dated 17.04.2021 in F.C.O.P.No.181/2019 shall stand confirmed.

(ii) C.R.P(PD)No.3028/2022 is allowed in as much as the costs portion is concerned, however, with the following directions.

a) On the next date of hearing to be fixed by the trial Court (Principal District Judge, Vellore), the petitioner/wife and the respondent/husband will be present in court for cross examination and the wife will cross examine the husband on the same day. The respondent/husband shall appear even without payment of costs.

b) The Principal District Judge, Vellore, is directed to take up the matter as expeditiously as possible and dispose of the G.W.O.P.No.82/2021, in any event, not later than six months from the date of receipt of a copy of this order.

c) It is also stated that M.C.No.72/2021 is still pending on the file of the Family Court, Vellore. Therefore,



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a direction is given to the learned Family Court, Vellore, to take up the said maintenance petition also and dispose of the same on merits, in any event, not later than six months from the date of receipt of a copy of this order.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
vsi

(J.N.B,J.) (D.B.C, J.)
28.06.2023

To
1. The Principal District Judge, Vellore.
2. The Family Court, Vellore

J. NISHA BANU, J.
and
D.BHARATHA CHAKRAVARTHY,J.



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