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C.R.P.No.1882 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

C.R.P.No.1882 of 2023

and

C.M.P.No.12013 of 2023

Venkatesh Venkata Subramanian

. . . Petitioner

Versus

Vijayalakshmi Ganesan

. . . Respondent

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India to set aside the docket order dated 05.06.2023 in O.P.No.120 of 2023 on the file of the VII Additional Family Court, Chennai.

For Petitioner : Mr.Rahul Jagannathan

ORDER

Heard Mr.Rahul Jagannathan, learned counsel for the petitioner and perused the records.

2. This revision petition is filed aggrieved by the docket order dated 05.06.2023 passed in O.P.No.120 of 2023 on the file of the VII Additional Family Court, Chennai.



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3. Learned counsel for the petitioner submitted that the petitioner/husband has filed O.P.No.120 of 2023 seeking divorce against the respondent/wife on the ground of cruelty and desertion. The respondent stated to have remained *ex-parte* and not participated in the proceedings. During the course of recording of *ex-parte* evidence, the petitioner has sought to mark the photo copy of the Marriage Registration Certificate dated 09.09.2005 and the Family Court Judge has passed the following interim orders :

*" Petitioner present. Orders vide separate sheet.
On perusal of the documents filed by the petitioner, the Marriage Registration Certificate filed in the case is seen to be a Xerox Copy and it cannot be received in evidence. Only if the petitioner produces the original Marriage Registration Certificate, it can be compared with the original, and it can be received as Secondary evidence. But, the petitioner has not produced the original Marriage Registration Certificate and therefore, this Court is not inclined to mark this Marriage Registration Certificate. Hence the petitioner is directed to produce the original Marriage Registration Certificate by 12.06.2023 failing which further orders will be passed."*



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4. Once respondent/wife remained ex-parte, there was no necessity for filing the Marriage Certificate at the first place in the petition filed seeking divorce of the marriage which was took place on 07.02.1999 between petitioner and respondent. Even otherwise when the original certificate stated to be with the respondent/wife, the photo copy of the Marriage Certificate could have been considered by the trial Court for marking further evidence. The petitioner, who intends to file the photo copy of the registered Marriage Certificate can certainly approach the concerned Registrar of Marriage and get the certified copy of the Marriage Certificate and file before the Court and proceed further in this case, for which the petitioner has expressed his willingness. Therefore, on production of certified copy of the Marriage Certificate the trial Court shall proceed with recording of evidence and decide the matter on merits.

5. It is submitted by the learned counsel for the petitioner that since it takes some time to get the certified copy of the Marriage Certificate sought for dispensing with the presence of the petitioner. Accordingly, the presence of the petitioner before the VII Additional Family Court, Chennai in O.P.No.120 of 2023 is dispensed with. However, the trial Court is at liberty to direct the petitioner to be present as and when required for disposal of the case.



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6. With these observations, this civil revision petition is disposed of.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

22.06.2023

Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

ms

To

The VII Additional Family Court Judge,
Chennai.



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DR.D.NAGARJUN, J.,

ms

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and
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22.06.2023