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C.R.P.No.3505 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.09.2023

CORAM

THE HON'BLE MRS JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.3505 of 2023

P.Bharathi

... Petitioner

Vs.

S.Gunasundari

... Respondent

PRAYER:-Civil Revision Petition filed under Article 227 of the Constitution of India to direct the learned Family Judge, Erode to dispose of the FCOP No.460 of 2022.

For Petitioner : C.Prakasam

ORDER

This Civil Revision Petition has been filed to direct the learned Family Judge, Erode to dispose of the FCOP No.460 of 2022.

The brief facts of the case is as follows:-

2.The marriage between the petitioner and the respondent was solemnized on 03.07.2017 at ModaKuruchi, as per Hindu Rites and



C.R.P.No.3505 of 2023

Customs. After marriage, the couple was residing in their matrimonial home at Coimbatore where the respondent's mother insisted the respondent to take her along with them and lived with together. Out of the said wed lock one girl child was born to them on 03.05.2018. The respondent's mother was in the habit of creating issues between the couple. Due to which difference of opinion arose between them, and they started living separately. At present the respondent is living with her mother in Erode. In this connection, the petitioner filed a petition for restitution of conjugal rights in FCOP.No.29 of 2018 before the Family Court, Erode, wherein the respondent was given counseling and respondent started living with the petitioner.

3. Again the respondent's mother started living with them and created problems between the couple. Thereafter, the respondent left the matrimonial house along with the child and her mother. At the instance of her mother, the respondent filed FCOP.No.213 of 2018 against the petitioner, where the Family Court gave counseling to the couple and the same was withdrawn. At this time the respondent left the matrimonial



4. Under these circumstances, the petitioner filed FCOP.No.94 of 2020 on 21.02.2020 seeking divorce, wherein, court notice was ordered and the same was served on the respondent. Though notice was served on the respondent, she neither appeared in person nor through her counsel before the Family Court. Since, the same was pending for a long time, the petitioner filed a petition before this Court in C.R.P.(PD).No.1236 of 2021 praying for speedy disposal of the FCOP.No.94 of 2020. This Court, vide its order dated 19.07.2021 disposed of the same by directing the Family Court, Erode to dispose of the FCOP.No.94 of 2020 along with I.A.NO.3 of 2021 within a period of three months. But, the respondent has not appeared before the Family Court and hence, an ex-parte order was passed on 24.09.2021. Thereafter, the respondent came up with a petition to set aside the ex-parte order and the same was allowed on 23.10.2021. Since the same was pending, the petitioner filed another C.R.P.No.684 of 2020 before this Court and the same was allowed directing speedy disposal of the FCOP.No.94 of 2020 on or before 31.12.2022. While that being so, there



C.R.P.No.3505 of 2023

WEB COPY

was a compromise between the couple and the respondent started living with the petitioner.

5. Thereafter, the respondent for the third time left the matrimonial home refusing to live with the petitioner and is living separately for the past several months. Thereafter, the petitioner had approached the Family Court, Erode and filed a divorce petition in FCOP.No.460 of 2022 and the same is pending till date. Hence, the petitioner has filed the present Revision Petition.

6. Heard Mr.C.Prakasam, learned counsel for the petitioner.

7. The learned counsel for the petitioner submitted that the marriage between the petitioner and the respondent was solemnized on 03.07.2017 at ModaKuruchi, as per Hindu Rites and Customs, and out of the said wed lock one girl child was born to them on 03.05.2018. The respondent's mother was in the habit of creating issues between the couple and due to which difference of opinion arose between them, they both got separated



C.R.P.No.3505 of 2023

WEB COPY

and were living separately. The respondent was in the habit of leaving the matrimonial house repeatedly which resulted in filing of FCOP.Nos.29 & 213 of 2018 and FCOP.No.94 of 2020 filed by the petitioner and the respondent subsequently, and the same was withdrawn on compromise. Even thereafter, the respondent left the matrimonial home. Therefore, the petitioner had filed a petition seeking divorce in FCOP.No.460 of 2022 and the same is pending. Since, the attitude of the respondent shows that she is not willing to live with the petitioner even after several counselings, he prayed that this Court may issue direction to the Court below to dispose of the FCOP.No.460 of 2022 as expeditiously as possible and hence, prayed for allowing the Revision Petition.

8. I have considered the submissions made by the learned counsel for the petitioner and perused the materials available on record.

9. On perusal of records, it is seen that F.C.O.P.No.213 of 2018 was filed by the wife. After the respondent came to the Court and after attending counseling, she started living with the husband. Thereafter, the wife



C.R.P.No.3505 of 2023

WEB COPY

withdrew the petition. After which again, F.C.O.P.No.94 of 2020 along with I.A.No.3 of 2021 was filed by the petitioner. While that being so, the wife appeared before the Court and assured that she will live with the husband and that the said F.C.O.P. was also withdrawn. As a second time, the wife left the matrimonial home and is living separately till date. Therefore, the husband has again filed a petition for divorce in 2020 since, the wife is of the habit of leaving the matrimonial home and not willing to live with the husband. This attitude of the wife is definitely causing mental agony to the petitioner and the same cannot be accepted. The petitioner had already filed a Revision Petition in C.R.P.No.684 of 2022 to dispose of the FCOP.No.94 of 2020. The same was considered and disposed of by a direction for speedy disposal of the same.

10. After the said C.R.P. order was passed, the wife again left the house and now the husband has filed FCOP.No.460 of 2022 before the Family Court, Erode on 14.10.2022 and notice was ordered. Again counseling was conducted and posted for enquiry. The wife is not appearing before the Court. Considering the facts and the attitude of the wife, this



C.R.P.No.3505 of 2023

Court issues the following direction:-

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(i) Considering the attitude of the wife, the learned trial Judge Family Court, Erode is directed to pass appropriate orders in I.A.No.3 of 2021 on or before 31.12.2023, since no further counseling is necessary.

11. With the above direction, this Civil Revision Petition stands disposed. No costs.

25.09.2023

Index : Yes/No
Speaking : Yes/No
NCC : Yes/No
gba

To
The Family Judge, Erode



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C.R.P.No.3505 of 2023

V.BHAVANI SUBBAROYAN.J.,

gba

C.R.P.No.3505 of 2023



WEB COPY



C.R.P.No.3505 of 2023

25.09.2023