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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.Nos.206 and 208 of 2023

and

C.M.P.No.1672 of 2023

C.R.P.No.206 of 2023

E.Suresh Kumar

... Petitioner

Vs.

Laskhmi Raj Synthiya

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order passed in I.A.5 of 2022 in H.M.O.P.No.144 of 2016 on the file of the Subordinate Judge, Pollachi dated 10.09.2022.

C.R.P.No.208 of 2023

E.Suresh Kumar

... Petitioner

Vs.

Laskhmi Raj Synthiya

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the docket order passed in I.A.4 of 2022 in H.M.O.P.No.144 of 2016 on the file of the Subordinate Judge, Pollachi dated 10.09.2022.



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For Petitioner

: Mr.S.Kaithamalai Kumaran
(in both CRPs)

ORDER

The Civil Revision Petitions are filed to set aside the docket orders passed in I.A.Nos.4 and 5 of 2022 in H.M.O.P.No.144 of 2016 dated 10.09.2022.

2. The marriage between the petitioner / husband and the respondent / wife was solemnised on 20.01.2002 at Salem as per Hindu Rites and Customs. Two children were born from and out of the wedlock between the petitioner and the respondent. Due to misunderstanding, the petitioner and the respondent are living separately and the children are with the custody of the respondent / wife. The respondent / wife filed H.M.O.P.No.144 of 2016 for Dissolution of Marriage on several grounds. Pertinently, the Divorce case instituted by the respondent / wife is pending for the past about six (6) years.

3. The trial was in progress and the respondent / wife was present in the Court and ready to subject herself for the cross-examination of the



petitioner / husband. While so, the petitioner / husband and his counsel, who were present on that day, had not cross-examined the respondent / P.W-1 and filed a petition thereafter to re-open and re-call the P.W-1 for the purpose of cross-examination.

4. The Trial Court in its docket order recorded that the petitioner wanted to mark some documents. However, the petitioner had not enclosed those documents along with the petition. The petitioner is expected to conduct the case, more so, when the witnesses are ready for examination or cross-examination. The Trial Court further recorded that the learned counsel for the respondent / wife was ready and submitted for the proceedings of the case, since the witness is present very much in the Court. When the P.W-1 and her counsel were present and ready to subject herself for further cross-examination, the petitioner / husband has filed a petition stating that the petitioner is not ready for cross-examining the P.W-1 and further filed a petition seeking permission to mark certain documents and those documents were also not enclosed along with the petition. With the above factual background, this Court has to consider the present Civil Revision Petition.



5. Proceedings are to be conducted consistently and by affording opportunity to the parties, so as to ensure disposal is made within a reasonable period of time. If the Divorce proceedings instituted by the respondent / wife herein is kept pending for the past about six (6) years, the parties may not be in a position to decide about their future life. It is most unfortunate that such matrimonial disputes are kept pending before various Courts for an indefinite period either without progress or with slow progress. Such a situation undoubtedly require changes and in this regard, the Trial Courts are directed not to grant unnecessary adjournments on flimsy grounds and long adjournments are to be avoided. The Trial Courts may regulate the cases by categorising the same on its board and ensure that the cases are disposed of within a reasonable period of time.

7. Contrarily, if the parties are allowed to take adjournments at their whims and fancies, then the other party would be prejudiced and such a practice, if any, adopted by anyone of the party is to be thwarted and at no circumstances be encouraged by the Courts.

8. On institution of litigation, the aggrieved litigants are thriving hard to dispose of their respective cases. Non-co-operation of the learned counsels



are also to be viewed seriously. If the practice of forum shopping is found, the same has to be viewed seriously and Courts shall not pave way for such practice. Therefore, whenever the cases are listed for trial, Courts are expected not to grant adjournments, more specifically, when the witnesses are present. One cannot direct the witnesses to be present repeatedly, which would affect their normal life, as everyone has to work hard for their livelihood in the current day circumstances and even travelling and attending the Court itself is a difficult affair in the present day context.

9. Thus, casual adjournments or adjournments to the convenience of the lawyers or the other opposite parties can be considered only if the reasons are genuine and such reasons are to be recorded, while granting such adjournments.

10. A litigant, who is not vigilant enough or slept over or not availed the opportunity afforded by the Court, is not entitled for any relief from the hands of the Court. It is not as if the litigants can take over the procedure on their hands and make an attempt to achieve their goal in an indirect manner.

11. Thus, this Court is of the considered opinion that conducting the



case is the rule. Adjournment is an exception and exceptions cannot be made as a rule. Once, the litigant lost the opportunity, it is lost on account of his conduct and no Court can aid for such litigants, who all are not vigilant enough to conduct the cases or attempting to drag on the proceedings or to cause prejudice to the other parties.

12. In the present case, the docket order impugned reveals the lackadaisical approach of the revision petitioner / husband in conducting the case along with his counsel. When the counsel for the respondent / wife was ready to proceed with the case and the respondent / P.W-1 witness was also present in the Court and expressed their willingness to proceed with the cross-examination, the revision petitioner / husband made a representation that he is not ready to cross-examine P.W-1 on that day. The said conduct, undoubtedly, would have caused greater prejudice to the respondent / wife and again she is made to attend the Court repeatedly, which cannot be appreciated by this Court.

13. No witness can be made to suffer on account of the conduct of the opposite party. Once the witness is present, the learned counsels appearing for the parties are expected to proceed with the examination and



cross-examination and once they have expressed their unwillingness to proceed with the case, then no further opportunity need to be granted by the Courts and factual inference is to be drawn that the party, who seeks unnecessary adjournments is not interested in pursuing his case or not co-operating for the speedy disposal of the case and accordingly, the Court is empowered to close the evidences or pass appropriate orders as necessary.

14. Since, in the present case, the Divorce proceedings are pending for the past six (6) years and the trial has already commenced, more so, the revision petitioner has not availed off the opportunity afforded by the Court, he is not entitled for any leniency from the hands of this Court and the parties are at liberty to proceed with the case and co-operate for early disposal.

13. The Sub Court, Pollachi is directed to proceed with the case without causing any undue delay and dispose of the matrimonial proceedings as expeditiously as possible.

Accordingly, the Civil Revision Petition in C.R.P.Nos.206 and 208 of



2023 stands dismissed. No costs. Consequently, connected Miscellaneous
Petition is closed.

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02.02.2023

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Index : Yes

Speaking order

Neutral Citation : Yes

To

The Subordinate Judge,
Subordinate Court,
Pollachi.



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C.R.P.Nos.206 and 208 of 2



S.M.SUBRAMANIAM, J.

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C.R.P.Nos.206 and 208 of 2023

02.02.2023