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CRP(PD).No.4804 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

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THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

CRP(PD).No.4804 of 2023
and CMP.No.28511 of 2023

1. Madhulika Maddipudi

2. Nanda Kishore Kolluru

...Petitioners

Vs.

NIL

...Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the impugned Docket Order dated 20.10.2023 passed in O.P.S.R.No.5406 of 2023 pending on the file of the Principal Judge Family Court, Chennai and to receive the O.P.S.R.No.5406 of 2023 and number the same.

For Petitioners : Mr.K.Subbu Ranga Bharathi

ORDER

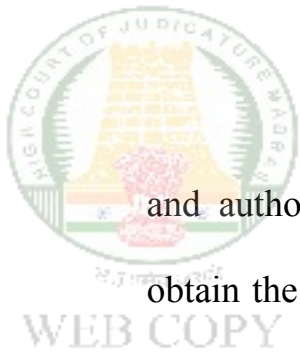
This Civil Revision Petition has been filed seeking to set aside the impugned Docket Order dated 20.10.2023 passed by the Principal Judge, Family Court, Chennai, in O.P.S.R.No.5406 of 2023 and to receive the O.P.S.R.No.5406 of 2023 and number the same.



2. When the matter is taken up for hearing, both parties have appeared before this Court through Video conferencing and this Court has enquired both of them have expressed that they are not inclined living together and they agreed to file a mutual consent divorce petition and gave power of attorney to the parents of both petitioners. Furthermore, the father of the second petitioner appeared in person and father of the first petitioner appeared through video conference on enquiry that the petitioners 1 and 2 have not inclined to re-union and go for mutual consent divorce petition through their power of attorney before the trial Court. Now, the petitioners filed the petition for mutual consent divorce petition through their power of attorney. The said petition has been returned by the trial Court for want of personal appearance of the petitioners.

3. Aggrieved over the same, the petitioners have filed this Civil Revision Petition before this Court.

4. The learned counsel for the petitioners submitted that the revision petitioners filed a petition through their power of attorney but the same was returned by the trial Judge is erroneous one. He further submitted that the presentation of a petition for divorce by a power of attorney holder is permitted



and authorised by law. Therefore, there is no necessity for the petitioners to obtain the permission of the Court to file the petition through their Power Agent but the trial Court has not been taken the case and dismissed the petition.

5. Today, both parties are appeared before this Court through Video Conferencing as they are now in abroad. They also agreed to attend the Court after 6 months. Therefore, there is no necessity of both petitioners appearance before the trial Court for presentation of the divorce petition and the same can be done though their authorised power of attorney and their presence is required only on the date of recording their evidence. This Court is of the opinion that both parties are come down to India and directed to appear before the trial Court to record the evidence in mutual consent divorce as per the date fixed by the trial Court, indeed they agreed to that effect today. Therefore, the order passed by the Principal Judge, Family Court, Chennai, in O.P.SR.No.5406 of 2023 is hereby set aside. Hence, the trial Court is directed to number the main petition and proceed in the manner known to law.

6. In view of the above, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.



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T.V.THAMILSELVI.J.

msrm

7. Registry is directed to return the original petition filed by the petitioners.

20.12.2023

Speaking / Non Speaking order

Neutral Citation : Yes/No

Index :Yes/No

msrm

To

1. The Principal Judge, Family Court, Chennai.

2. The Section Officer,
VR Section,
High Court of Madras.

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