



WEB COPY



C.R.P. Nos.4975, 4977 & 4987 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos.4975, 4977 & 4987 of 2023
and
CMP.No.29127, 29129 & 29144 of 2023

Rajalakshmi

... Petitioner in all CRPs

Versus

Muralidharan

... Respondent in all CRPs

PRAYER in CRP.No.4975 of 2023: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the common order dated 14.12.2023 in FCIA.No.14 of 2023, in FCIA.No.8 of 2023 in FCOP.No.182 of 2022 on the file of the Family Court, Ariyalur.



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PRAYER in CRP.No.4977 of 2023: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the common order dated 14.12.2023 in FCIA.No.13 of 2023, in FCIA.No.8 of 2023 in FCOP.No.182 of 2022 on the file of the Family Court, Ariyalur.

PRAYER in CRP.No.4987 of 2023: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the common order dated 14.12.2023 in FCIA.No.12 of 2023, in FCIA.No.8 of 2023 in FCOP.No.182 of 2022 on the file of the Family Court, Ariyalur.

For Petitioner in all CRPs : Mr.R.Gokulakrishnan

For Respondent in all CRPs : Mr.J.V.Sakthi Balakrishnan
Mr.V.S.Rishwanth

COMMON ORDER

The petitioner has filed these petitions to set aside the common order dated 14.12.2023 in FCIA.No.12, 13 & 14 of 2023, in FCIA.No.8 of 2023 in FCOP.No.182 of 2022 on the file of the Family Court, Ariyalur.



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2. Heard Mr.R.Gokulakrishnan, learned counsel for the petitioner and Mr.J.V.Sakthi Balakrishnan and Mr.V.S.Rishwanth, appearing for the respondent and perused the materials available in record. Notice served.

3. Before the trial Court the petitioner has filed an application in FCIA.No.12 of 2023 under Section 148 & 151 of CPC to enlarge the time for payment of cost of Rs.2,000/- ordered in I.A.No.8 of 2023 and filed FCIA.No.13 of 2023 under Order IX Rule 9 of CPC to restore the I.A.No.8 of 2023 and also filed another FCIA.No.14 of 2023 under Section 151 of CPC to reopen the I.A.No.8 of 2023. All the applications were dismissed by the learned trial Judge stating that she ought to have paid the cost in time and also sufficient opportunities were already given. After closing of all the evidences she has come forward with these applications. Apart from that after commencement of the trial she filed the interim applications, which has caused interference to the trial. Therefore, all the applications were dismissed. Aggrieved by the same, the revision petitioner has filed this revision.



4. The learned counsel for the petitioner submitted that even during the pendency of the proceedings, the respondent got married and she had valid defence to prove the same, so she had filed FCIA.Nos.8,9,10 & 11 of 2023 in ECOP.No.182 of 2022, to reopen the respondent's side evidence for marking of documents and to recall RW-1 for further examination to mark the additional documents with costs and also to condone the delay to receive the additional documents with costs and to examine the additional witnesses on the side of the respondent and the applications were allowed with cost, but she was not able to pay the cost as she is only relying on the maintenance given by her husband, and she has no other source of income and living separately with her child. Hence, he prays to set aside the findings of the trial Court.

5. The learned counsel appearing for the respondent / husband submitted that after commencement of the trial, for harassing the husband the petitioner has filed number of applications. Admittedly, cost was ordered by the learned trial Judge in FCIA.Nos.8,9,10 & 11 of 2023 in ECOP.No.182 of 2022, dated 12.10.2023, but she is yet to comply with the



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order, hence applications were dismissed. Furthermore, she was not specifically mentioned the reasons for reopening and recalling therefore all the applications were dismissed.

6. On seeing the fact that now FHMOP.No.182 was filed by the husband for divorce, it is almost the end of the case. The wife is living with her child, she want to reopen and recall the witnesses. If opportunity is not given she will be put to much hardship. Therefore, this Court is inclined to set aside the findings given by the learned trial Judge in in FCIA.No.12, 13 & 14 of 2023, in FCIA.No.8 of 2023 in FCOP.No.182 of 2022. This Court allows all the applications in order to avoid further complications. The petitioner is already depending upon the maintenance given by the husband. Therefore, the cost imposed by the learned trial Judge in FCIA.Nos.8,9,10 & 11 of 2023 in ECOP.No.182 of 2022, dated 12.10.2023 is also set aside.

7. The learned trial Judge is directed to complete the trial within a period of 8 weeks from the date of receipt of a copy of this order. Both the parties are directed to co-operate for the proceedings.



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T.V.THAMILSELVI, J.

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8. Accordingly, these Civil Revision Petitions are allowed. Consequently, the connected miscellaneous petitions are closed. There shall be no order as to costs.

22.12.2023

Index : Yes / No
Neutral Citation: Yes / No
Speaking/Non-speaking order

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1. The Family Judge, Ariyalur.
2. The Section Officer,
VR Section, High Court of Madras.

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and
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