



C.R.P.(MD) No.1739 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

C.R.P.(MD) No.1739 of 2023

1.S.Tharanya

2.N.Surajkumar

... Petitioners

Vs.

Nil

... Respondent

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the impugned order dated 13.06.2023 in I.A.No.100 of 2023 in H.M.O.P.No.124 of 2023 passed by the Subordinate Judge, Kovilpatti and direct the Subordinate Judge, Kovilpatti to waive the cooling period.

For Petitioners : Mr.S.Ramasamy

ORDER

This Civil Revision Petition has been preferred by the petitioners against the impugned order dated 13.06.2023 passed by the learned Subordinate Judge, Kovilpatti in I.A.No.100 of 2023 in H.M.O.P.No.124 of 2023 and for a direction to the learned Subordinate Judge to waive the cooling period.



C.R.P.(MD) No.1739 of 2023

WEB COPY

2. The petitioners are the husband and wife. The petitioners have presented H.M.O.P.No.124 of 2023 before the Subordinate Court, Kovilpatti for divorce by mutual consent under Section 13(B) of the Hindu Marriage Act, 1955. After presenting the H.M.O.P., an application in I.A.No.100 of 2023 was filed by the petitioners under Section 13(B)(2) of the Hindu Marriage Act, 1955 to waive the mandatory cooling period of 6 months. The said I.A. was dismissed by the Court below *vide* the impugned order dated 13.06.2023.

3. According to the petitioners, the marriage between the petitioners was solemnized on 10.09.2021 and thereafter, due to the marital discord, they got separated and were living separately for many years. Hence, they moved a petition before the Subordinate Court, Kovilpatti in H.M.O.P.No.124 of 2023 for divorce by mutual consent. When the said H.M.O.P. was pending, an application in I.A.No.100 of 2023 was filed by the petitioners for waiving the mandatory cooling period of 6 months.

4. It is submitted that in the Petition filed for divorce, the petitioners have clearly mentioned that there is no possibility for re-union. The learned counsel for the petitioners has relied upon a decision of the Hon'ble Supreme



C.R.P.(MD) No.1739 of 2023

Court in **Amardeep Singh Vs. Harveen Kaur**, reported in 2017 (3) MWN (Civil) 458 (SC) : 2017 (5) CTC 665 (SC), wherein, it was held that the possibility to waive the cooling period can be considered by the Family Court provided in the opinion of the Court there is no possibility for reconciliation.

5. The learned counsel for the petitioners has further relied upon a decision of the Madras High Court (Principal Seat of this Court), Chennai in the case of **K.Mohanarangan and others Vs. Nil**, reported in 2022 (3) MWN (Civil) 653, wherein, the decision of the Hon'ble Supreme Court in the above case of **Amardeep Singh** was referred and it was observed that *“The whole object of giving the cooling period is to just to give an opportunity to the couples to recall their good old days and iron out the differences by valuing the relationship and re-unite. When the subsistence of marriage is seen as a burden and does not link with the emotional, sexual and physical well-being of the couples and all other attendant circumstances of their life, the marriage will naturally loose its life and there cannot be any scope for reunion of the couples between whom there is love lost and life lost.”*

6. Heard the submissions made by the learned counsel for the petitioners and perused the materials available on record.



C.R.P.(MD) No.1739 of 2023

WEB COPY

7. In the H.M.O.P. filed for divorce by mutual consent, the petitioners clearly mentioned that there is no possibility for re-union and they are living separately for many years. On this aspect also, the petitioners filed I.A.No.100 of 2023 in H.M.O.P.No.124 of 2023 for waiving the cooling period of 6 months.

8. In view of the guidelines issued by the Hon'ble Supreme Court in the case of **Amardeep Singh** referred to *supra*, cooling period of 6 months may be waived in the present case also as there is no possibility for re-union or reconciliation. Therefore, the impugned order dated 13.06.2023 passed by the learned Subordinate Judge, Kovilpatti in I.A.No.100 of 2023 in H.M.O.P.No. 124 of 2023 is set aside and the cooling period of 6 months is waived.

9. The learned Subordinate Judge, Kovilpatti is directed to dispose the H.M.O.P. filed by the petitioners for divorce by mutual consent, on merits, as expeditiously as possible.



C.R.P.(MD) No.1739 of 2023

WEB COPY 10. Accordingly, this Civil Miscellaneous Petition is allowed. No cost.

21.07.2023

Internet : Yes/No

NCC : Yes/No

jen

To

The Judge,

I Additional District Court, Madurai



WEB COPY



C.R.P.(MD) No.1739 of 2023

K.GOVINDARAJAN THILAKAVADI, J.

jen

C.R.P.(MD) No.1739 of 2023

21.07.2023