



C.R.P.(MD) No.2274 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2023

CORAM

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

C.R.P.(MD) No.2274 of 2023

1.N.R.Subash

2.S.Malar

... Petitioners

Vs.

Nil

... Respondent

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Family Court, Madurai to dispose of the petition in H.M.O.P.No.416 of 2023 pending on its file at the earliest within a time frame fixed by this Court.

For Petitioners : Mr.R.Nagarajan

ORDER

This Civil Revision Petition has been filed by the petitioners for a direction to the Family Court, Madurai to dispose of the petition in H.M.O.P.No.416 of 2023 pending on its file at the earliest within a time frame fixed by this Court.



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2. The petitioners are the husband and wife. They have jointly filed a petition in H.M.O.P.No.416 of 2023 under Section 13(B) of the Hindu Marriage Act, 1955 before the Family Court, Madurai for dissolution of marriage solemnized between them on 26.01.2015 by mutual consent.

3. It is submitted that the petitioners lived together from the date of marriage, but, there was no cordial relationship between them and they did not have peaceful matrimonial life. Having differences of opinion, the petitioners are living separately for more than 3 years. It is further submitted that though several attempts were made by the elders and well wishers of both parties for reunion of the petitioners, they ended in failure and therefore, there is no possibility for reunion. On the said aspect, the petitioners filed H.M.O.P.No. 416 of 2023 for divorce by mutual consent. It is submitted that however, the learned Family Judge, Madurai has mechanically posted the case after seven months for final considerations.

4. It is submitted that the learned Family Judge, Madurai has failed to consider that the cooling period mentioned in Section 13(B) of the Hindu Marriage Act, 1955 is not mandatory and it is only directory. The learned counsel for the petitioners has relied upon a decision of the Hon'ble Supreme



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Court in case of **Amardeep Singh Vs. Harveen Kaur**, reported in 2017 (3)

MWN (Civil) 458 (SC) : 2017 (5) CTC 665 (SC), in which, the Court has held that the possibility to waive the cooling period can be considered by the Family Court provided in the opinion of the Court that there is no possibility for reconciliation.

5. It is further submitted that 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 by relying the above decision of the Hon'ble Supreme Court in **Amardeep Singh** has 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. The learned counsel for the petitioners has also relied upon a decision of this Court in **K.Samuya Shanmugathai and another Vs. Nil**, passed in



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C.R.P.(MD) No.2570 of 2022, dated 21.12.2022, wherein, it was held that

“though it was once compulsory for mutual consent divorce and when there is no possibility of parties resuming cohabitation, this court is of the view that the cooling off period in this case is to be waived”.

7. Heard the learned counsel for the petitioners and perused the records and the decisions cited by the learned counsel for the petitioners.

8. The petitioners clearly stated that there is no possibility for reunion and they are living separately for many years. On this aspect also, the petitioners filed H.M.O.P.No.416 of 2023 for divorce by mutual consent. Therefore, there is no necessity for waiting for the cooling period.

9. Therefore, the learned Family Judge, Madurai is directed to dispose of the petition in H.M.O.P.No.416 of 2023 filed by the petitioners for divorce by mutual consent, without considering the cooling period of six months, expeditiously, within a period of 2 months from the date of receipt of a copy of this order.



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WEB COPY 10. Accordingly, this Civil Revision Petition is disposed of. No cost.

11.09.2023

Internet : Yes/No

NCC : Yes/No

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To

The Family Judge,
Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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