



C.R.P.(MD) No.2080 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2023

CORAM

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

C.R.P.(MD) No.2080 of 2023

1.Karthikeyan

2.Marakathavalli

... Petitioners

Vs.

Nil

... Respondent

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 13.07.2023 passed in I.A.SR.No.1902 of 2023 in H.M.O.P.No.140 of 2023 on the file of the Subordinate Court, Devakottai, Sivagangai District and to waive 6 months waiting period.

For Petitioners : Mr.R.Balamuruganantham

ORDER

This Civil Revision Petition has been preferred by the petitioners to set aside the impugned docket order dated 13.07.2023 passed in I.A.SR.No.1902 of 2023 in H.M.O.P.No.140 of 2023 on the file of the Subordinate Court, Devakottai, Sivagangai District and to waive 6 months waiting/cooling period.



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2. The petitioners are the husband and wife and they have presented H.M.O.P.No.140 of 2023 before the Subordinate Court, Devakottai, Sivagangai District 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.SR.No.1902 of 2023 was filed by the petitioners under Section 13(B)(2) of the Hindu Marriage Act, 1955 to waive the mandatory waiting/cooling period of 6 months. The said I.A. was returned by the Court below without numbering *vide* the impugned order dated 13.07.2023.

3. According to the petitioners, the marriage was solemnized between the petitioners on 12.09.2019 as per the Hindu rites and customs and thereafter, due to the marital discord, they got separated and are living separately from 10.12.2019. Hence, they moved a petition before the Subordinate Court, Devakottai, Sivagangai District in H.M.O.P.No.140 of 2023 for divorce by mutual consent. When the said H.M.O.P. was pending, an application in I.A.SR.No.1902 of 2023 was filed by the petitioners for waiving the mandatory waiting/cooling period of 6 months.

4. It is submitted that the petitioners togetherness has been ended before 4 years and it become irretrievable now. The petitioners deserted each other



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since 2019. It is submitted that though several attempts were made for re-union of the petitioners, they ended in vain and therefore, there is no possibility for re-union. It is therefore submitted that the impugned order is liable to be set aside and the waiting/cooling period of 6 months may be waived in the case of the petitioners.

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

6. The Hon'ble Supreme Court in case of **Amardeep Singh Vs. Harveen Kaur**, reported in 2017 (3) MWN (Civil) 458 (SC) : 2017 (5) CTC 665 (SC) 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.

7. 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*



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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.”

8. The petitioners clearly stated 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.SR.No.1902 of 2023 in H.M.O.P.No.140 of 2023 for waiving the waiting/cooling period of 6 months.

9. In view of the guidelines issued by the Hon'ble Supreme Court in the case of **Amardeep Singh** referred to *supra*, the 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 docket order dated 13.07.2023 passed in I.A.SR.No.1902 of 2023 in H.M.O.P.No.140 of 2023 on the file of the Subordinate Court, Devakottai, Sivagangai District is set aside and the cooling/waiting period of 6 months is waived.



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

11. Accordingly, this Civil Revision Petition is allowed. No cost.

22.08.2023

Internet : Yes/No

NCC : Yes/No

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To
The Subordinate Judge,
Devakottai, Sivagangai District.



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K.GOVINDARAJAN THILAKAVADI, J.

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