



C.R.P.(MD) No.2352 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2023

CORAM

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

C.R.P.(MD) No.2352 of 2023

1.Sathappan

2.Priyadharshini

... Petitioners

Vs.

Nil

... Respondent

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Sub Court, Thirumayam to expedite the trial in H.M.O.P.No.109 of 2023 on its file, within a time frame as may be fixed by this Court.

For Petitioners : Mr.D.Rameshkumar

ORDER

This Civil Revision Petition has been filed by the petitioners for speedy disposal of H.M.O.P.No.109 of 2023 pending on the file of the Sub Court, Thirumayam.



C.R.P.(MD) No.2352 of 2023

WEB COPY

2. The petitioners have filed H.M.O.P.No.109 of 2023 under Section 13(B)(1) of the Hindu Marriage Act, 1955 before the Sub Court, Thirumayam for divorce by mutual consent.

3. The learned counsel for the petitioners would submit that the marriage was solemnized between the petitioners on 06.07.2015. Due to the matrimonial discord, the petitioners are living separately from 10.01.2022 and therefore they filed H.M.O.P. for divorce by mutual consent. It is submitted that H.M.O.P. was adjourned to 06.02.2024 by the learned Sub Judge, Thirumayam for the 2nd slab of cooling period.

4. The learned counsel for the petitioners would further submit that cooling period is only recommendatory and not mandatory. It is submitted that though the family members and the elders of the petitioners tried to compromise the issue between the spouses, all their efforts ended in vain and therefore, there is no chance for reunion.

5. It is submitted that the learned Sub Judge, Thirumayam has failed to consider that the cooling period mentioned in Section 13(B) of the Hindu



C.R.P.(MD) No.2352 of 2023

Marriage Act, 1955 is not mandatory and it is only directory. Therefore, the petitioners were constrained to approach this Court for speedy disposal of H.M.O.P. without considering the cooling period.

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

7. 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 Court provided in the opinion of the Court that there is no possibility for reconciliation.

8. 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*



C.R.P.(MD) No.2352 of 2023

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.”

9. This Court in **K.Samuya Shanmugathai and another Vs. Nil**, passed in C.R.P.(MD) No.2570 of 2022, dated 21.12.2022 has also 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*”.

10. In the present case, 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.109 of 2023 for divorce by mutual consent. Therefore, there is no necessity for waiting for the cooling period.

11. Therefore, the learned Sub Judge, Thirumayam is directed to dispose of the petition in H.M.O.P.No.109 of 2023 filed by the petitioners for divorce by mutual consent, without considering the cooling period of six months,



C.R.P.(MD) No.2352 of 2023

expeditiously, within a period of 1 month from the date of receipt of a copy of
this order.

12. Accordingly, this Civil Revision Petition is disposed of. No cost.

26.09.2023

Internet : Yes/No
NCC : Yes/No
jen

To

- 1.The Sub Judge,
Thirumayam.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of the Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD) No.2352 of 2023

K.GOVINDARAJAN THILAKAVADI, J.

Jen

C.R.P.(MD) No.2352 of 2023

26.09.2023