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CRP Nos.692 and 699 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP Nos.692 and 699 of 2024

1.K.G.Swetha

2.S.Niharika

... Petitioners

Vs.

M.Santhosh

...Respondent

PRAYER in CRP Nos.692 and 699 of 2024 : Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the fair and decreetal order in IA Nos.4 and 5 of 2023 in HMOP No.3797 of 2018 dated 12.01.2024 on the file of the V Additional Principal Family Court, Chennai.

For Petitioners : Mr.G.Murugendran

For Respondent : Mr.Avinash Wadhwani



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COMMON ORDER

The civil revision petitions are filed to set aside the fair and decreetal order in IA Nos.4 and 5 of 2023 in HMOP No.3797 of 2018 dated 12.01.2024 on the file of the V Additional Principal Family Court, Chennai.

2. The first petitioner is the wife and respondent is the husband. The respondent husband filed HMOP No.3797 of 2018 on the file of the V Additional Principal Family Court, Chennai seeking divorce on the ground of cruelty. During trial, since the first petitioner wife had not appeared, the evidence was closed. Thereafter, the petitioner wife filed applications in IA Nos.4 and 5 of 2023 to reopen and recall the PW1 for cross examination, which were dismissed on the ground that several opportunity was given and the case was reposted on 16.12.2013 and since the petitioner wife did not turned up, the evidence was closed and the case was adjourned for further proceedings. Challenging the said common order, the petitioners have filed the present civil revision petitions.



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3. Learned counsel for the petitioners submits that on 15.02.2023, the Madras High Court Advocate Association had conducted election and all the advocates attended election and not attended the court. The petitioners' advocate is a candidate in the election. Therefore, he could not represent the case on 16.12.2023, on the next day and evidence has been closed. Therefore, seeking to allow the Revisions. He further submits that the petitioners are ready to cooperate to conduct the case.

4. Learned counsel for the respondent objected for allowing the Revision and supported the impugned order. He submits that in spite of direction of this Court to dispose it within time frame, the petitioner had not cooperated to conduct the case. The petitioner has filed EP for recovery of interim maintenance without cooperating the case. Hence, seeking to dismiss the Revisions.



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5. On verification of the materials, it is noticed that admittedly on 15.12.2023, the Madras High Court Advocate Association had conducted election for office bearers. The petitioners' advocate is also one of the candidate. According to the first petitioner, the case was posted on 16.12.2023 for cross examination, on that date, the petitioner's advocate was not present. Hence, evidence has been closed and posted for further proceedings. Thereafter, filed the instant applications and the same were dismissed.

6. Considering the nature of the proceedings that the respondent husband filed HMOP No.3797 of 2018 for divorce against the first petitioner, it has to be adjudicated. Though several opportunity has been given to the first petitioner, in order to give one more opportunity, I am inclined to allow the civil revision petitions and the impugned order dated 12.01.2024 is set aside and the Civil Revisions Petitions are allowed, with a direction to the V Additional Principal Family Court, Chennai, to conduct the court proceedings on a day to day basis and dispose HMOP No.3797 of



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2018, as early as possible. The first petitioner is also directed to co-operate with the case. There shall be no order as to costs. Consequently, CMP Nos.3541 and 3524 are closed.

28.02.2024

Index: Yes/No
Internet: Yes/No
mrn

To
V Additional Principal Family Court, Chennai.



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V.SIVAGNANAM, J.,

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