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C.R.P. (PD) No.1892 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2024

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THE HONOURABLE Ms. JUSTICE M.NIRMAL KUMAR

C.R.P (PD) No.1892 of 2024

K.Shyamala

... Petitioner

Vs.

S.Vimalraj

Rep. by his power agent/friend

Mr.Asik Ali

... Respondent

(Cause title was accepted vide order dated 26.04.2024 made in CMP No. 9059 of 2024 in CRP SR No.44969 of 2023)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the dairy order dated 11.03.2024 passed in OPSR No.1050 of 2024 on the file of the leaned Principal Family Judge, Chennai.

For Petitioner : Mr.Velmurugan Parthiban

**ORDER**

WEB COPY This Civil Revision Petition has been filed challenging the dairy order of the learned Principal Family Judge, Chennai, dated 11.03.2024 passed in OPSR No.1050 of 2024.

2. The case of the petitioner is that the petitioner married the respondent on 20.02.2013 and they were living as husband and wife for nearly 11 years. Out of their wedlock, are blessed with two sons namely V.Akshith, aged 10 years and V.Aadhvik, aged 4 years. During their matrimonial life, differences of opinion arose between them and due to which, they got separated on 03.01.2021 and now, they are living separately. The petitioner is having the custody of two sons and she is taking care of them. The respondent moved to UK and the petitioner is not willing to join him. Thereafter, at the intervention of the elders, family members and friends, it was decided that the respondent will have the custody of the elder son V.Akshith and the petitioner will have the custody of the younger son V.Aadhvik. The other exchange of articles and issues between them resolved. Thereafter, a mutual consent petition under Section 13(B) of Hindu marriage Act was presented on 21.02.2024 along with an



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C.R.P. (PD) No.1892 of 2024

adjudicated power of attorney executed by the respondent in favour of his friend Asik Ali. The Family Court, Chennai received the said mutual consent petition, but insisted the presence of the respondent herein and thereafter, an application in I.A.No.1 of 2024 was filed by the petitioner and the respondent was allowed to appear through video conferencing. The said petition was received along with the document. Thereafter, the mutual consent petition was returned, for the reason exact date of separation not given and it was stated as "November 2021. Further, appropriate court fee has not been noted. For collection of return and representation, the Family Court insist the presence of both the petitioner and respondent in person. Unless the returned papers are handed over to the petitioner for compliance and permitting the respondent to appear through power of attorney or through video conference, the joint petition cannot be processed and numbered. Hence she sought for a direction.

3. Finding that it is a matrimonial dispute between the petitioner and the respondent and now, the same got resolved and both of them agreed get mutually separated, the petition under Section 13(B) need not be returned or withheld for technical reasons. Now, video conferencing facility available and usage recognized. Further, the respondent has given a power of



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attorney in favour of his friend Asik Ali. The petitioner along with the power of attorney holder to receive the petition returned by Family Court rightly make corrections and represent the same before the Family Court. Thereafter, the Family Court to receive the petition and number the same and fix a date for appearance of parties either in person, or through virtual mode. As far as the respondent is concerned, since he is residing at UK and unable to appear before the Court in person, he may be permitted to appear through video conferencing mode. Whenever it is absolutely necessary, after hearings he can be represented by his power of attorney. The learned Principal Family Judge, Chennai is directed to dispose of the mutual consent petition in O.P. S.R No.1050 of 2024 at the earliest without any delay so that consequential acts and commitments are fulfilled and the divorce by mutual consent can be completed in full.

4. With the above direction, this Civil Revision Petition is disposed of. No costs.

Index : Yes/No
Speaking Order : Yes / No
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30.04.2024
(2/2)

Note: Issue order copy today i.e 30.04.2024



C.R.P. (PD) No.1892 of 2020.

To

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1. The Principal Family Court
Chennai.
2. The Section Officer,
VR Section, Madras High Court,
Chennai.



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C.R.P. (PD) No.1892 of 2021

M.NIRMAL KUMAR, J.,

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(2/2)**

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