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C.R.P.(PD) No.2604 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

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THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD) No.2604 of 2024

G.Sathya

... Petitioner

Vs

A.Parthiban

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the docket order dated 02.02.2024 made in unnumbered I.A.No. of 2024 in C.M.A.No.18 of 2022 on the file of the learned III Additional District and Sessions Judge, Poonamallee.

For Petitioner : Mr.K.T.S.Sivakumar

### **ORDER**

The petitioner is the wife. She preferred an appeal in C.M.A.No.18 of 2022 against the order dated 14.07.2022 passed in H.M.O.P.No.483 of 2018, which was filed by the respondent under Section 13(1)(ia) and Section 13(1)(ib) of the Hindu Marriage Act, 1955, praying to dissolve the



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marriage solemnized between him and the petitioner on 30.06.2014. It transpires that the said appeal was withdrawn by the counsel representing the wife on 15.06.2023. On coming to know of this fact, the petitioner/wife filed an application to recall the order of withdrawal within 30 days on 07.07.2023. The learned III Additional District and Sessions Judge, Poonamallee, did not number the said application and even in the unnumbered stage, called upon the appearance of the petitioner and since she did not appear, proceeded to reject the application on 02.02.2024. As against the said rejection order, this revision petition has been filed.

2. As the respondent/husband has not been served in the recall application, it will not be proper on my part to issue notice in the present revision petition. This is a case in which the respondent/husband must be given an opportunity to file his counter before the trial Court. Hence, while dispensing with the notice to the respondent, I have to pass the following order :

- (a) It has been held by this Court in ***Selvaraj and Others Vs Koodankulam Nuclear Power Plant India Limited and Others (MANU/TN/4835/2021)*** that the court must not keep an



application in the unnumbered stage pending and if the court feels that the application is not maintainable, the appropriate procedure is to number the application, call the matter in the open court and thereafter, decide on the maintainability.

(b) Instead of deciding on the maintainability, the learned Judge, without even numbering the application, seems to have adjourned the matter repeatedly for the appearance of the petitioner. Such a procedure is unknown to the CPC.

Therefore, I am constrained to interfere with the order. Consequently, the order dated 02.02.2024 is set aside. The learned III Additional District and Sessions Judge, Poonamallee, is directed to number the application, if it is otherwise in order and on numbering the application, the learned Judge shall issue notice to the respondent, receive his counter and thereafter, dispose of the application, in accordance with law.

With the above direction, this civil revision petition stands allowed.

No costs.

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Index : Yes/No

Neutral Citation : Yes/No



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V.LAKSHMINARAYANAN, J.

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To  
The III Additional District and Sessions Judge  
Poonamallee

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