



C.R.P. No. 3778 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2024

CORAM

THE HONOURABLE MR. JUSTICE P.DHANABAL

C.R.P. No. 3778 of 2022

and

C.M.P. No. 19918 of 2022

K.Ravindravarma ... Petitioner / Petitioner / Respondent

Vs.

V.R.Mohanapriya ... Respondent / Respondent / Petitioner

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, 1950, to set aside the fair order dated 16.09.2022 made in I.A. No. 5 of 2022 in H.M.O.P. No. 150 of 2019 on the file of the Family Court, Thiruvallur.

For Petitioner : M/s. G.Bharath Rajan
for M/s. K.Aparna Devi

For Respondent : M/s. A.R.Suresh

ORDER

This Civil Revision Petition has been preferred as against the order dated 16.09.2022 made in I.A. No. 5 of 2022 in H.M.O.P. No. 150 of 2019 on the file of the Family Court, Thiruvallur, wherein, the petitioner herein has



filed petition before the Trial Court to reject the petition under Order VII Rule 11(e) of C.P.C. and the same was dismissed.

2. The case of the petitioner is that he is the respondent in the main petition. The main petition was filed by the respondent/wife. Already, the petitioner/husband has filed petition in H.M.O.P. No. 50 of 2018 on the file of the Senior Civil Judge at Puttur, Chittoor District, A.P. for restitution of conjugal rights and the same was decreed on 31.10.2019. The petitioner also filed E.P. No. 32 of 2019 and the same is also pending. After passing decree for restitution of conjugal rights without complying the order, the respondent filed this H.M.O.P. No. 150 of 2019 for seeking divorce. Therefore, the respondent herein filed petition by suppressing the earlier order passed by the Competent Court for restitution of conjugal rights. Thereby, the petition in H.M.O.P. No. 150 of 2019 is liable to be rejected.

3. The case of the respondent is that she admitted the filing of H.M.O.P. No. 50 of 2018 and the Execution Petition in E.P. No. 32 of 2019 filed by the petitioner. The petition filed by this respondent for granting divorce on the ground of cruelty has also been referred in the order passed by the Court in H.M.O.P. No. 50 of 2018. The petitioner is not really interested in living with



the respondent and had filed the petition for restitution of conjugal rights only to escape from the criminal actions and payment of maintenance and permanent alimony. There is no ground stated by the petitioner to reject the petition and the averments of the affidavit does not make out any ground for rejection of the petition. The petition is only filed to delay the proceedings, therefore, the petition is liable to be set aside.

4. Before the Trial Court, no oral or documentary evidences adduced on either side. The Trial Court, after hearing both sides, dismissed the petition.

5. The learned counsel appearing for the petitioner would contend that the respondent herein has filed petition for granting divorce in H.M.O.P. No. 150 of 2019 before the Trial Court. The petitioner already filed petition in H.M.O.P. No. 50 of 2018 before the Senior Civil Judge at Puttur, Chittoor District, A.P. for the relief of restitution of conjugal rights and the same was allowed and thereafter, he filed petition in E.P. No. 32 of 2021 and the same is also pending. By suppressing the said facts and without any appeal as against that order, the present petition has been filed and the same is liable to be rejected. The date of the order in H.M.O.P. No. 50 of 2018 by the Senior Civil Judge at Puttur, Chittoor District, A.P. is 31.10.2019 but they have not



mentioned about that case. Since, already the Competent Court has decided and ordered for restitution of conjugal rights, the present petition filed by the respondent for granting divorce, is liable to be rejected. Therefore, he filed petition before the Trial Court. But, the Trial Court without considering the case of the petitioner that already the Competent Court has directed the respondent to restitution of the conjugal rights, dismissed the application. Therefore, the order passed by the Trial Court is liable to be set aside.

6. The learned counsel appearing for the respondent would contend that the filing of H.M.O.P. No. 50 of 2018 on the file of the Senior Civil Judge at Puttur, Chittoor District, A.P. and the decree passed on 31.10.2019 and Execution Petition in E.P. No. 32 of 2021 are all admitted. But this H.M.O.P. No. 150 of 2019 was filed before the decree passed in H.M.O.P. No. 50 of 2018. The petition was filed on 08.07.2019 i.e., three months prior to that decree. Therefore, there is no suppression of the order passed by the Competent Court in H.M.O.P. No. 50 of 2018. On the date of filing of the original petition by the respondent, the H.M.O.P. No. 50 of 2018 was pending, thereafter only the decree was granted. Therefore, there is no suppression of facts. Further, the petitioner has not stated any grounds in the affidavit to reject the petition. Therefore, the Trial Court had correctly dismissed the petition. Hence, the present Civil Revision Petition is liable to be

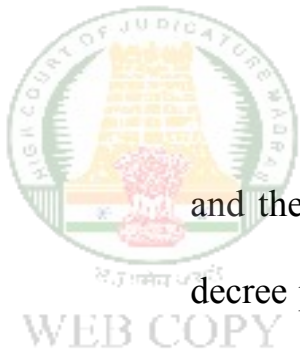


dismissed.

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7. This Court heard both sides and perused the materials available on record.

8. It is an admitted fact that both the parties have filed petitions and the petitioner herein has filed petition in H.M.O.P. No. 50 of 2018 on the file of the Senior Civil Judge at Puttur, Chittoor District, A.P. for restitution of conjugal rights and thereafter, the respondent also filed petition for granting divorce in H.M.O.P. No. 150 of 2019 on the file of the Family Court, Thiruvallur. Thereafter, the H.M.O.P. No. 50 of 2018 filed by the petitioner for restitution of conjugal rights was decreed by directing the respondent to restitute the conjugal rights. On the date of filing of H.M.O.P. No. 150 of 2019 on the file of the Family Court, Thiruvallur by the respondent, no decree was passed. The decree was passed on 31.10.2019 after filing of H.M.O.P. No. 150 of 2019. Therefore, the contention of the petitioner that by suppressing the decree passed in the H.M.O.P. No. 50 of 2018, the present petition in H.M.O.P. No. 150 of 2019 was filed. This Court perused the entire materials placed on record. On perusal of the affidavit filed by the petitioner, there is no any grounds under Order VII Rule 11 of CPC to reject the petition



and the main contention of the petitioner is that by suppressing of the earlier decree passed by the Senior Civil Judge at Puttur, Chittoor District, A.P., the present petition is filed. For that, this Court already came to a conclusion that before passing decree in H.M.O.P. No. 50 of 2018 that is dated 31.10.2019, the present H.M.O.P. No. 150 of 2019 was filed. Therefore, the contention of the petitioner to that record is not acceptable one. The Trial Court also in this aspect, after elaborate discussion, dismissed the petition that there is no ground to attract the provisions of Order VII Rule 11 of CPC to reject the petition. Therefore, the order passed by the Trial Court is proper and it does not warrant interference.

9. In view of the aforesaid discussions, this Court is of the opinion that the Civil Revision Petition has no merits and deserves to be dismissed. The learned counsel appearing for the petitioner, at this juncture, had requested the Court to pass order for early disposal of the main petition by considering the nature of the case, which is pending from the year 2019. Therefore, this Court is inclined to direct the Trial Court to dispose the case within a period of 4 months from the date of receipt of a copy of this order.

10. In the result, this Civil Revision Petition is dismissed. The Trial Court is directed to dispose the main case in H.M.O.P. No. 150 of 2019 within



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4 months from the date of receipt of a copy of this order. No costs.

Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes/No

Speaking order : Yes/No

NCC : Yes/No

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To

The Family Court, Thiruvallur.



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P.DHANABAL, J.,

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