



WEB COPY



C.R.P. No. 3487 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P. No. 3487 of 2024

V.Naveen Kumar

... Petitioner / Petitioner

Vs.

Kiruthika

... Respondent / Respondent

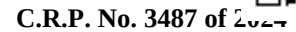
PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the Subordinate Judge, Alandur to number the advance hearing and waiver petition and decide the same on merits in H.M.O.P. No. 604 of 2024 on the file of the Subordinate Court, Alandur.

For Petitioner : Mr. P.Chandrasekar

For Respondent : Mr. M.K.Susi Kumar

ORDER

This civil revision petition seeks for a direction to the learned Subordinate Judge at Alandur to number the advance hearing petition and the waiver petition in H.M.O.P. No. 604 of 2024 and to decide the same within a reasonable period.



3. The husband had initiated proceedings in H.M.O.P. No. 257 of 2020 seeking for divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955. The wife had also initiated a petition under the Protection of Women from Domestic Violence Act, 2005 in D.V.C. No. 25 of 2021. In view of the bifurcation of jurisdiction, the said D.V.C. has been re-numbered as D.V.C. No. 19 of 2023. Pending these proceedings, on the advice of friends and elders, the parties have decided to bury the hatchet and part ways as friends. Accordingly, they filed H.M.O.P. No. 604 of 2024 on the file of the Subordinate Court at Alandur, seeking for dissolution of their marriage invoking the provisions of Section 13B of the Hindu Marriage Act, 1955. The learned Judge received the petition, numbered the same and has adjourned the matter to 20.02.2025.



4. As the parties have settled the matter in all respects, the civil revision petitioner moved two applications, one, seeking for waiver of the statutory period of six months for granting mutual consent on 13.08.2024 and another seeking for advancing the hearing from 20.02.2025 to an earlier date.

5. Mr. P.Chandrasekar would submit that the learned Subordinate Judge had not received the said petitions, despite the fact that the respondent herein namely Tmt. D.Kiruthika had endorsed “no counter” and “no objection” to the said petitions. Hence, this Civil Revision Petition.

6. When the matter came up for admission before me, I called upon Mr. P.Chandrasekar to serve the papers on Tmt. D.Kiruthika and also directed the appearance of both the civil revision petitioner and the respondent before this Court. In accordance with the order, Mr. V.Naveen Kumar is present and so is Tmt. D.Kiruthika. The identity of both the parties was verified by this Court.

7. Tmt. D.Kiruthika/respondent would state in clear and categorical terms that she has “no objection” for grant of divorce by way of mutual consent. She also states that the civil revision petitioner Mr. V.Naveen Kumar had handed over drafts for a sum of Rs.10,00,000/- drawn in her favour on



12.08.2024. She confirms the receipt of the drafts. Both parties agree that they have exchanged their articles and they do not have any claim against each other.

8. Tmt. D.Kiruthika also undertakes that she will withdraw D.V.C. No. 19 of 2023, which is pending before the District Munsif cum Judicial Magistrate Court at Pallavaram by next week. Mr. V.Naveen Kumar would submit that he has already withdrawn H.M.O.P. No. 238 of 2021 on 13.08.2024.

9. The urgency that has been shown by the parties for dissolution of marriage is on account of the fact that Mr. V. Naveen Kumar has to return to the United Kingdom on 01.09.2024.

10. I have questioned the parties on the contents of the 13B petition. Both of them stand by each and every clause that has been stated therein. It is clear from the above that the marriage survives only on paper and the parties are not willing to resume cohabitation. They would also state that there has been no coercion or undue influence in filing of the said petition. Since the parties have agreed to part ways, it makes absolutely no sense to keep the petition pending.



11. Though the parties want to separate, the learned Subordinate Judge at Alandur has not exercised the jurisdiction vested in him and passed orders on the application.

12. The Supreme Court of India has made it very clear that when the marriage is surviving only on paper and otherwise it is a dead, it would be an unnecessary exercise to keep it alive. This view has been laid down by the Supreme Court in *Amardeep Singh -vs- Harveen Kaur, (2017) 8 SCC 466*. As in that case, in the present one, all the efforts that have been taken to reunite the parties have failed and there is no likelihood of success in future also. There have been no children from the wedding or any other pending issues between the parties. By asking them to wait till February 2025, it is only going to prolong their agony. Consequently, in the exercise of the powers vested in this Court under Article 227 of the Constitution of India, and since the learned Subordinate Judge has not exercised the jurisdiction vested in him, this civil revision petition is ordered. H.M.O.P. No. 604 of 2024 stands allowed.

13. The marriage between the civil revision petitioner and the respondent on 28.10.2024 will stand dissolved by mutual consent under



C.R.P. No. 3487 of 2024

Section 13B of the Hindu Marriage Act of 1955.

WEB COPY

14. A copy of this order shall be sent to the learned Subordinate Judge at Alandur, who shall record the fact that this court has allowed the H.M.O.P. No. 604 of 2024 and pass the consequential orders in the said proceeding.

15. I should add here that both parties have made endorsement to that effect that they have no objection for 13B of the Hindu Marriage Act, 1955, is being allowed.

16. In the result, the civil revision petition is ordered. No costs.

29.08.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
pal



C.R.P. No. 3487 of 2027

To

WEB.COM

1. The Subordinate Court at Alandur.
2. District Munsif cum Judicial Magistrate Court at Pallavaram.



WEB COPY



C.R.P. No. 3487 of 2024

V.LAKSHMINARAYANAN, J.,

pal

C.R.P. No. 3487 of 2024

29.08.2024