



C.R.P. (PD) .No. 3918 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.10.2024

CORAM

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No. 3918 of 2024

&

C.M.P.No. 21444 of 2024

G.Ramya

...Petitioner

Vs.

Arun Prasath

...Respondent

Prayer: Petition is filed under Article 227 of the Constitution of India against the order in I.A.No.2 of 2023 in O.P.No.397 of 2023 on the file of the III Additional Principal Family Court, Chennai.

For Petitioner : Mr. G.R.M.Palaniappan



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ORDER

This Civil Revision Petition arises at the instance of the wife.

2. The respondent / husband has initiated O.P.No.397 of 2023 invoking the provisions of Section 13 (i a) and (i b) of the Hindu Marriage Act. In the said proceedings, the wife took out an application for rejection of the petition. According to the wife, there is no cause of action for the petition being taken on file and therefore sought for the aforesaid relief.

3. The learned Trial Judge, after receipt of a counter, proceeded to dismiss the petition filed for rejection of the petition. Hence, the revision.

4. Heard Mr.G.R.M.Palaniappan for the civil revision petitioner.



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5. Mr.G.R.M.Palaniappan contends that there is no dispute in the relationship between the parties. Pleading that the wife had deserted the husband on 02.04.2017, the husband had initiated H.M.O.P.No.2976 of 2017 on the file of the VII Additional Family Court, Chennai. The wife filed a counter setting forth her case. The husband instead of contesting the proceedings let the matter be dismissed for default on 20.08.2019. Subsequently, he has presented H.M.O.P.No.397 of 2023. When the previous proceedings having been dismissed for default, he urges it is not open to him to continue the proceedings.

6. I have carefully considered the submissions of Mr.G.R.M.Palaniappan.

7. When it comes to rejection of petition, this Court is concerned only with the averments made in the petition. A perusal of the petition



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shows that the husband pleads that the matter had been left for default on account of the fact that the parents of the respective parties had given assurance that they would strive towards re-union and the husband had been advised to leave the petition for default. Thereafter, he pleads, the parents of the wife merely dragged the matter and it was only then he came to know that under the guise of settlement, he was made to agree to leave the matter for default, he realised the game plan of the wife. He pleads that the conduct of the wife was only to take vengeance over him.

8. Apart from that the husband states that the wife did not co-habit with him after 02.04.2017. He has also added a plea of desertion and had sought for divorce.

9. Mr.G.R.M.Palaniappan submits that at no point of time settlement talks took place and that there had been no demand by the petitioner / wife or her parents that they will commence settlement talks only after the petition is dismissed for default. *Whether the plea of*



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Mr.G.R.M.Palaniappan is correct or not is not for me to adjudicate in this proceeding. It is for the Family Court to decide after evidence is recorded. As pointed out above, this Court is only concerned with the averments made in the petition and I have to take it to be true for the purpose of proceeding further.

10. Leaving it open to the parties to adjudicate the matter before the Trial Court, the Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
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To

The III Additional Principal Family Court,
Chennai.



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V.LAKSHMINARAYANAN, J.

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