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C.R.P.Nos.3862 & 3865 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.Nos.3862 & 3865 of 2024
and C.M.P.Nos.21226, 21364 & 21366 of 2024

S.Raja

... Petitioner in both CRPs.

Vs

R.Brindha

... Respondent in both CRPs.

Prayer in C.R.P.No.3862 of 2024 : Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the docket order dated 22.08.2024 made in Memo dated 22.08.2024 in E.A.No.3 of 2023 in E.P.No.7 of 2022 in I.A.No.229 of 2018 in H.M.O.P.No.16 of 2017 on the file of the Additional Family Court, Coimbatore.

Prayer in C.R.P.No.3865 of 2024 : Civil Revision Petition filed under Article 227 of Constitution of India, pleaded to set aside the docket order dated 22.08.2024 made in Memo dated 22.08.2024 in E.A.No.4 of 2023 in E.P.No.7 of 2022 in I.A.No.229 of 2018 in H.M.O.P.No.16 of 2017 on the file of the Additional Family Court, Coimbatore.

In both CRPs.,

For Petitioner : Mr.N.Manojkumar



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COMMON ORDER

These Civil Revision Petitions have been filed by the petitioner against the docket order passed by the Additional Family Court, Coimbatore, in Memo dated 22.08.2024 in E.A.Nos.3 & 4 of 2023 in E.P.No.7 of 2022 in I.A.No.229 of 2018 in H.M.O.P.No.16 of 2017 dated 22.08.2024.

2. The case of the petitioner is as follows :-

2.1 The petitioner/husband had filed an application in E.A.No.3 of 2023 under Order 21 Rule 106 against the ex parte order passed in E.P.No.7 of 2022 on 01.12.2022 and he had also filed another application in E.A.No.4 of 2023 under Section 151 of CPC to recall the warrant issued against the petitioner on 01.12.2022 in E.P.No.7 of 2022. The learned Additional Principal Family Judge, Coimbatore, had dismissed the above two applications, vide orders dated 06.06.2023.

2.2. Against which, the petitioner had filed two revision petitions before this Court in C.R.P.Nos.3208 & 3213 of 2023 seeking to set aside the fair and final orders dated 06.06.2023 made in E.A.Nos.3 & 4 of 2023 in



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E.P.No.7 of 2022 in I.A.No.229 of 2018 in H.M.O.P.No.16 of 2017 on the file of the Additional Family Court, Coimbatore. This Court, after hearing both sides, vide order dated 01.08.2024, had allowed the revision petitions and directed the petitioner to pay a sum of Rs.50,000/- to the respondent as cost for allowing those revision petitions on or before 16.08.2024.

2.3. Pursuant to the order passed by this Court on 01.08.2024, the petitioner had taken the Demand Draft dated 16.08.2024 for a sum of Rs.50,000/- in favour of the respondent and attempted to hand over the same to the counsel for the respondent on the same day, however, he had refused to receive the same. Since it was late in the evening, immediately on the next day, it being the Saturday, the petitioner had filed a Memo along with copy of the Demand Draft before the Registry vide C.F.R.No.8201 dated 17.08.2024 to show his bonafide.

2.4. Thereafter, when the matter was called on 22.08.2024, the learned Judge, by a docket order returned the Memo stating that it has been filed beyond the period stipulated by this Court. Thereby, challenging the same, the present Civil Revision Petitions have been filed.



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3. Learned counsel for the petitioner submitted that this Court, while allowing the revision petitions filed by the petitioner in C.R.P.Nos.3208 & 3213 of 2023, had directed the petitioner to pay a cost of Rs.50,000/- on or before 16.08.2024 and pursuant to the same, the petitioner had taken the Demand Draft in favour of the respondent on 16.08.2024. Thereafter, Mr.P.Gunasekaran, learned counsel for the petitioner appearing before the execution Court had attempted to hand over the Demand Draft to Mr.P.Rahman, learned counsel for the respondent appearing before the execution Court, whereas, he refused to receive the same. He further submitted that it is not the intention of the petitioner to delay the payment of cost and it would be proved by the fact that the Demand Draft itself is dated 16.08.2024. Therefore, if the docket order dated 22.08.2024 is not set aside and a direction is not issued to the respondent to receive the Demand Draft, the petitioner will be put to great hardship.

4. Heard the learned counsel for the petitioner and perused the materials available on record.



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5. It is seen from the records that this Court, vide order dated 01.08.2024, had allowed the revision petitions filed by the petitioner in C.R.P.Nos.3208 & 3213 of 2023, with a condition to pay cost to the respondent on or before 16.08.2024 and since the respondent's counsel refused to receive the Demand Draft on 16.08.2024, the petitioner had immediately on the next day on 17.08.2024, filed a Memo along with the copy of the Demand Draft before the Registry in C.F.R.No.8201 and thereafter, on the next hearing date, the Additional Family Court, Coimbatore, had returned the same vide docket order dated 22.08.2024. Now, the petitioner is ready with the Demand Draft. This Court had directed the petitioner to pay the amount on or before 16.08.2024 and the petitioner cannot be blamed and penalized for the counsel for the respondent refusing to receive the Demand Draft.

6. In view of the above, these Civil Revision Petitions stand allowed and the order of return made in Memo dated 22.08.2024 by the learned Additional Family Court, Coimbatore, in E.A.Nos.3 & 4 of 2023 in E.P.No.7 of 2022 in I.A.No.229 of 2018 in H.M.O.P.No.16 of 2017 on 22.08.2024 is hereby set aside.



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7. In compliance of the order passed by this Court in C.R.P.Nos.3208 & 3213 of 2023 dated 01.08.2024, the petitioner is directed to hand over the Demand Draft to the respondent or her counsel on or before 03.10.2024 and in the event of refusal, he shall file the Demand Draft for Rs.50,000/- before the Court concerned along with the fresh Memo on **04.10.2024**. Consequently, connected miscellaneous petitions are also closed. No costs.

26.09.2024

Note : Issue order copy on 30.09.2024

Index : Yes / No

Neutral Citation : Yes / No

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To

The Additional Family Court, Coimbatore.



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A.D.JAGADISH CHANDIRA, J.

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