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CRP.No.5081 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

C.R.P. No.5081 of 2023
and
CMP.No.29546 of 2023

Premalatha @ Aandal

.. Petitioner

VS

P. Raviraj

... Respondent

Prayer: Civil Revision Petition filed under section 227 of C.P.C., praying to strike-off the HMOP No.59 of 2023 on the file of the Principal sub Court, Viridhachalam.

For Petitioner : Mr.Suchit Anant Palande

ORDER

This Civil Revision Petition is filed to strike-off the HMOP No.59 of 2023 filed by the respondent on the file of the Principal sub Court, Viridhachalam against the petitioner.

2.The petitioner is the wife of the respondent. The respondent/husband filed a petition for divorce in HMOP.No.83 of 2021 before the Principal Sub Court, Viridhachalam and the petitioner/wife



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filed a petition for restitution of conjugal rights in HMOP.No.22 of 2022 before the Subordinate Court, Alandur. Thereafter, she filed a petition for transferring HMOP.No.83 of 2021 filed by the respondent from Vridhachalam to Alandur in Tr.C.M.P.No.652 of 2021 before this court and the same was allowed on 22.11.2021. Subsequently, HMOP.No.83 of 2021 on the file of Principal Sub Court, Vridhachalam had been transferred to the file of Sub Court, Alandur and renumbered as HMOP.No.176 of 2022. During the course of proceedings, the Sub Court, Alandur referred both the cases HMOP.No.176 of 2022 and HMOP.No.22 of 2022 to Lok Adalat, wherein, an award was passed on 11.02.2023 based on the Joint Undertaking given by both the parties, hence, all the previous cases were withdrawn. The respondent without adhering the terms and conditions mentioned in the Joint Undertaking given before the Lok Adalat and without setting aside the Award dated 11.02.2023, has come forward with a fresh divorce petition in HMOP.No.59 of 2023 for divorce before the Principal Sub Court, Vridhachalam on the same set of facts. The petitioner has come forward with the present Civil Revision Petition on the ground that the respondent has filed HMOP.No.59 of 2023 on the file of Principal Sub



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Court, Viridhachalam on the same set of facts without setting aside the award passed by the Lok Adalat in HMOP.No.176 of 2022.

3. The learned counsel for the petitioner submitted that already both the cases HMOP.No.176 of 2022 and HMOP.No.22 of 2022 were referred to Lok Adalat. Then the matter was settled between the parties and an award was passed on 11.02.2023. Thereafter, HMOP No.59 of 2023 was filed by the respondent for divorce against the petitioner before the Principal Sub Court, Viridhachalam on the same set of facts without adhering the terms and conditions mentioned in the Joint Undertaking put forth before the Lok Adalat and without setting aside the award dated 11.02.2023. He further submitted that the facts and sequence of events clearly show that the petition against the petitioner is an absolute abuse of process of law and hence, the same is liable to be quashed. Thus she seeks for setting aside the Lok Adalat award dated 11.02.2023 and to strike out HMOP.No.59 of 2023 on the file of Principal Sub Court, Vridhachalam.



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4. On perusal of records, the fact reveals that the petitioner is the wife and the respondent is her husband. The marriage took place on 17.04.2019. It is not disputed. Further, due to misunderstanding and difference of opinion, the respondent has previously filed a divorce petition in HMOP.No.83 of 2021 before the Principal Sub Court, Viridhachalam and the petitioner filed HMOP.No.22 of 2022 before the Sub Court, Alandur for Restitution of Conjugal Rights. The petitioner preferred a transfer petition in Tr.CMP.No.652 of 2021 before this Court for transferring HMOP.No.83 of 2021 filed by the respondent from Viridhachalam to Alandur and the same was allowed on 22.11.2021, subsequently, HMOP.No.83 of 2021 had been transferred and renumbered as HMOP.No.176 of 2022 on the file of Sub Court, Alandur. During the course of proceedings HMOP.No.176 of 2022 and HMOP.No.22 of 2022 were referred to Lok Adalat. Thereafter, on the basis of Joint Undertaking given by both parties, all the previous cases were withdrawn and the Lok Adalat Award has been passed on 11.02.2023.



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5. Again, there is a difference of opinion between the parties,

hence the husband filed the present HMOP.No.59 of 2023 before the Principal Sub Court, Vridhachalam for divorce. On perusal of records, this court is of the view that for filing this HMOP, settlement award passed in HMOP.No.176 of 2023 on 11.03.2023 need not be set aside. The divorce petition filed in HMOP.No.59 of 2023 has to be adjudicated on merits. It is very well maintainable. I find no merits in the Civil Revision Petition. Hence, the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

05.01.2024

msr

Index:yes/no

Internet:yes/no

To

The Principal Sub Court, Virudhachalam.



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V. SIVAGNANAM, J.

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