



CRP (PD) No.5280 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2024

CORAM:

THE HON'BLE MR. JUSTICE V. LAKSHMINARAYANAN

C.R.P. (PD) No.5280 of 2024

1. C. Nivedha Lincy

2. J. Emmanuel Ajith

Petitioners

vs.

Nil

Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India seeking to set aside the order dated 27.09.2024 passed in I.A. No.2 of 2024 in I.D.O.P. No.244 of 2024 on the file of the District Court, Nagapattiniam.

For petitioners Mr. S. Elambharathi

ORDER

This civil revision petition challenges the order dated 27.09.2024 passed by the learned District Judge, Nagapattinam in I.A. No.2 of 2024 in I.D.O.P. No.244 of 2024.



WEB COURT

2. The petitioners solemnized their wedding on 03.07.2022 at Shrine Basilica Church at Vailankanni. Due to disputes and differences between themselves within 8 days from the date of wedding, *i.e.*, by 12.07.2022, they have separated.

3. The first petitioner presented I.D.O.P.No.47 of 2023 invoking Sections 10(1)(vii) and 10(5)(x) of the Divorce Act, 1869, before the District Court, Nagapattinam. The learned District Judge, after recording the evidence, dismissed the petition *vide* order dated 18.04.2024. However, the learned District Judge left it open to the parties to file a petition for mutual consent under Section 10-A of the Divorce Act, 1869.

4. After the dismissal of I.D.O.P. No.47 of 2023, the petitioners jointly filed a petition in I.D.O.P. No.244 of 2024 under Section 10-A of the Divorce Act, 1869, to dissolve the marriage dated 03.07.2022. Both of them jointly presented the petition before the Principal District Court at Nagapattinam.



CRP (PD) No.5280 of 2024

WEB COPY

5. The learned District Judge, Nagapattinam, took the petition on file and adjourned the matter to 11.03.2025. Subsequently, the petitioners filed an interlocutory application in I.A. No.2 of 2024 in I.D.O.P. No.244 of 2024 praying to waive the cooling period of six months to hear the mutual consent petition. This petition came to be dismissed vide order dated 27.09.2024. Hence, this revision.

6. Mr. Elambarathi stated that the petitioners are not ready for a re-union. He pointed out that during the course of the proceedings in I.D.O.P. No.47 of 2023, a stand was taken by both the parties that the marriage may be dissolved by mutual consent. The Court, finding that the power to dissolve a marriage on the ground of irretrievable breakdown of marriage being available only with the Supreme Court, had dismissed the petition. It had, however, granted liberty to the petitioners to file a petition under Section 10A of the Divorce Act. Taking advantage of this observation, the petitioners have filed a petition in I.A. No.2 of 2024 in I.D.O.P. No.244 of 2024.



7. The learned District Judge has rejected the plea for waiving the cooling period, despite the fact that he had noted, the parties had been separated from July 2022 onwards.

8. Taking into consideration the averments made in this revision and also the submissions of Mr. Elambarathi, I directed the parties to appear before this Court either in person or virtually. Accordingly, the petitioners, Nivedha Lincy and Emmanuel Ajith, appeared before the Court. Both of them state that they are not interested in continuing the matrimony entered into on 03.07.2022. In addition, Nivedha Lincy further adds that there is no claim, either permanent or interim, against Emmanuel Ajith. Both of them state that they were not coerced or pressurised into filing the divorce petition under Section 10A of the Divorce Act, 1869.

9. Both the parties have been identified by Mr. S.P.T. Anbumani, Advocate, Nagapattinam whose enrolment number is 24/1987 on the rolls of the Bar Council of Tamil Nadu. This identification is vouchsafed by Mr.Elambarathi.



CRP (PD) No.5280 of 2024

WEB COPY

10. As the parties do not want to continue the matrimony, to keep them together for the sake of the waivable period of six months, in my view, amounts to harassment of the parties. Keeping the litigation pending for the sake of compliance with Section 10A of the Divorce Act does not serve the interests of justice.

11. In view of the above discussion, I.D.O.P. No.244 of 2024 on the file of the District Court at Nagapattinam, is transferred to the file of this Court and the same stands allowed in the light of the clear and categorical submissions made by the parties who have appeared before this Court *via* video conferencing. The learned District Judge, Nagapattinam, shall record this order and pass a decree appropriately.

12. In fine, this civil revision petition stands allowed. No costs.

20.12.2024

cad

5/6



WEB COPY



CRP (PD) No.5280 of 2024

V. LAKSHMINARAYANAN, J.

cad

To

The District Judge
Nagapattinam

CRP (PD) No.5280 of 2024

20.12.2024

6/6