



C.R.P.(MD)No.708 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.708 of 2024

Antony Samuel

... Petitioner/Petitioner

Vs.

Joselin

... Respondent/Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the learned Family Court,Trichy, to accept the petitioner's memo, dated 26.10.2023 for withdrawal and permit the petitioner to withdraw his petition in I.D.O.P.No.53 of 2023 without insisting for affidavit with condition that the petitioner will not file any petition in future or so any.

For Petitioner : Mr.S.M.Ramasiva

ORDER

This civil revision petition has been filed seeking direction to the learned Family Court,Trichy, to accept the petitioner's memo, dated 26.10.2023 for withdrawal and permit the petitioner to withdraw his



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petition in I.D.O.P.No.53 of 2023 without insisting for affidavit with condition that the petitioner will not file any petition in future.

2.The above said IDOP was filed by this petitioner seeking divorce. Pending the further process, he filed a memo dated 26.10.2023 to not press the petition. Now, according to the learned counsel for the petitioner a condition is imposed upon him to file affidavit that he will not file application in future seeking the very same relief.

3.A report has been called for from the Family Court, Trichy and report has also been submitted making the following explanation.

“Further, I submit that on filing memo by the Counsel for petitioner on 26.09.2023, he had stated that he had already filed divorce petition against his wife before the Principal District Judge, Ramanathapuram. Hence, he doesn't want to proceed with this case and not press I.D.O.P.No.51 of 2023 petition. Hence, the same was objected by the counsel for respondent.

Further, I submit that the counsel for respondent had represented that the respondent had filed Transfer Petition before the Hon'ble Madurai



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Bench of Madras High Court, Madurai, to transfer I.D.O.P.No.31 of 2022 on the file of the Principal District Judge, Ramanathapuram, to this Court. The counsel for respondent had also represented that the petitioner had also filed Divorce Petition before this Court on 24.08.2023 against the respondent and the same was returned by this Court for certain defects on 01.09.2023. The counsel for respondent had also represented that the petitioner is in the habit of filing divorce cases against the respondent in various places, which causes mental agony to the respondent.

Further, I submit that on perusal of counter objection filed by the respondent and their representation before the open Court and in the presence of both parties and their counsels, I orally instructed the counsel for petitioner to file an affidavit undertaking that he will not file any divorce cases against his wife on the ground of Nullity alleging that his wife is not a normal person and having stable mental condition mentioned in IDOP.No.53 of 2023 in any other Court.”

4. Reading of the report by the Family Court shows that the petitioner is in the habit of filing several applications seeking divorce



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from the respondent in various Courts. Because of the habit of the revision petitioner only, he instructed him to file undertaking affidavit.

While clarification is sought for from the petitioner's counsel, he would submit that no other application has been filed by him before any Court seeking the very same relief. The original application filed before the Family Court, Ramanathapuram, was transferred to the Family Court, Trichy. Except this matter no other matter is pending between them.

5. When the petitioner does not want to prosecute the matter further, imposing the condition of filing undertaking affidavit is not proper. But, cost may be imposed upon the revision petitioner by the Family Court, while making the order. But, no undertaking affidavit.

6. With the above said directions, this revision petition stands disposed of and the learned Judge, Family Court, Trichy, is directed to pass orders immediately on receipt of the copy of this order. No costs.

27.03.2024

Index : Yes / No
Internet : Yes / No
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To

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- 1.The Judge, Family Court, Trichy.
- 2.The Section Officer,
E.R.Section/V.R.Section,
Madurai Bench of Madras High Court, Madurai.

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G.ILANGO VAN,J.

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