



C.R.P(MD)No.1657 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.09.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(MD)No.1657 of 2024

and

C.M.P(MD)No.9738 of 2024

Nirmal Jayakumar

... Petitioner /
Petitioner /
Respondent

Vs.

Grace Vinitha

... Respondent /
Respondent /
Petitioner

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 13.02.2023, passed in I.A.No.4 of 2023 in IDOP No. 4 of 2021 on the file of the Family court, Pudukottai by allowing this Civil Revision Petition.

For Petitioner : Mr.Aravind Subramanian
Senior Counsel
for M/s.S.Priyanka

For Respondent : Mr.B.Jameel Arasu



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ORDER

Heard the learned Senior Counsel appearing for the revision petitioner and the learned counsel appearing for the respondent.

2.The respondent herein filed I.D.O.P.No.4 of 2021 on the file of Family Court, Pudukottai for restitution of conjugal rights in the said IDOP, the revision petitioner herein (husband) filed I.A.No.4 of 2023. The prayer in the IA is that the Court may direct the wife to join with the husband and in the event of failure to do so, her petition for restitution of conjugal rights should be dismissed. The Court below dismissed the said IA vide order dated 13.02.2023. Questioning the same, this Civil Revision Petition came to be filed.

3.The learned Senior Counsel appearing for the revision petitioner reiterated all the contentions set out in the memorandum of grounds of Civil Revision Petition.



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4.I am not swayed by the said submissions. Paragraph 6 of the impugned order reads as follows:

“6. On perusal of records it is found that the wife has filed an ICOP 4/21 for the relief of restitution of conjugal rights and the husband has filed IDOP 5/21 for the relief of divorce and the cases are jointly tried and posted for RWI cross i.e., the wife has to be cross examined. Therefore when the Court has granted ample opportunity for arriving at a settlement between the parties and no settlement was arrived at between them and the cases are proceeded with for disposal as per law, the application by the petitioner/husband to direct the wife to live with him and to direct the consequences on its failure is a premature petition and this petition is nothing but to delay the proceedings in the main case and it is not maintainable in law and facts at this stage.”

More than anything else, without withdrawing the divorce petition filed by him, the husband cannot file I.A.No.4 of 2023 for directing the wife to join with him. The Court below rightly dismissed the IA as not maintainable. Interference is not warranted.



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5.However, taking into account the fact that the matrimonial dispute is pending for quite a few years, I direct the learned Family Court, Pudukottai to dispose of IDOP.No.4 of 2021 on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

6.This Civil Revision Petition is dismissed with the aforesaid direction. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

26.09.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

The Family Court,
Pudukottai.



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G.R.SWAMINATHAN, J.

MGA

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