



CRP(MD).Nos.1208 and 1209 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 02.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

**C.R.P(MD)Nos.1208 and 1209 of 2024
and C.M.P(MD).Nos.6989 and 6990 of 2024**

C.R.Ganesh Babu

... Petitioner in both petitions

-Vs-

S.Shanmugapriya

... Respondent in both petitions

COMMON PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair order and Ex-order in I.A.Nos. 365 and 366 of 2024 in H.M.O.P.No.53 of 2020 dated 30.04.2024 on the file of learned Subordinate Court, Usilampatti.

In both petitions

For Petitioner : Mr.C.Ramesh

For Respondent : Mr.K.Chengizkhan



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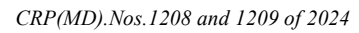
CRP(MD).Nos.1208 and 1209 of 2024

COMMON ORDER

These two civil revision petitions arise out of the fair and decreetal order passed by the learned Subordinate Judge, Usilampatti, dated 30.04.2024 in I.A.Nos.365 and 366 of 2024 in H.M.O.P.No.53 of 2020.

2. H.M.O.P.No.53 of 2020 is filed by the petitioner herein, who is the husband, for dissolution of marriage. It is stated that originally the said petition was filed in the year 2012 and now, after transfer, it is renumbered as H.M.O.P.No.53 of 2020. The said case was in the stage of the cross-examination of the respondent/wife and the respondent/wife was examined in chief. Thereafter for two occasions, when the matter was adjourned for cross-examination, the petitioner did not cross-examine the respondent/wife and therefore, the evidence was closed and the matter was posted for arguments. Immediately thereafter, the present applications to reopen and recall R.W.1 for cross-examination were filed.

3. The trial Court found that the said applications are filed in a routine manner without any reason and only to protract the proceedings



4. Mr.C.Ramesh, learned counsel appearing on behalf of the petitioner would submit that when the petitioner had immediately filed the applications, the trial Court ought to have considered the same. In this case being a matrimonial matter, cross-examination of respondent/wife is essential. Further, for some of the hearings, the respondent/wife was also not present and the delay is not entirely on the part of the petitioner.

5. Per contra, the learned counsel for the respondent would submit that even though the petitioner/husband filed the application for divorce in the year 2012, he never showed any interest in prosecuting the same and all along, he was trying only to protract the proceedings and trial itself commenced only in the year 2022. On behalf of the petitioner, P.W.1 was examined and he was cross-examined. Thereafter, the petitioner's side evidence was closed. On behalf of the respondent, only the wife was examined as R.W.1 and since she was not cross-examined and on repeated occasions, the trial Court was pleased to close the evidence and



CRP(MD).Nos.1208 and 1209 of 2024

subsequently, these applications were dismissed. He would therefore pray that this Court should not interfere. He would also submit that the petitioner being a rich landlord, is harassing the wife and he is not even paying maintenance arrears and therefore, he may be directed to pay all the arrears of maintenance. In any event, the learned counsel would submit that the wife should also be paid cost.

6. I have considered the rival submissions made on either side and perused the materials available on record.

7. When it comes to the argument relating to protracting the issue, it is the petitioner who filed the petition and therefore, it cannot be said that he would be benefitted out of protracting the issue. The only argument is that he is harassing the wife as she has been facing the Court proceedings so long.

8. Considering the over all facts and circumstances of the cases, it is the petitioner's own lapse that he would not cross-examine, therefore, one more opportunity can be granted to the petitioner. But however, to



CRP(MD).Nos.1208 and 1209 of 2024

compensate for the lapse, the cost can be awarded. I am of the view that these petitions can be awarded on a cost of Rs.15,000/- (Rupees Fifteen Thousand only). In that view of the matter, these Civil Revision Petitions are allowed on the following terms:

(i) The order dated 30.04.2024 passed in I.A.Nos.365 and 366 of 2024 in H.M.O.P.No.53 of 2020 shall stand set aside and the applications shall stand allowed, however, on condition that the petitioner/husband shall pay a cost of Rs.15,000/- (Rupees Fifteen Thousand only) **on or before 10.07.2024** .

(ii) The cost can be paid either to the learned counsel appearing before the High Court or to the learned counsel appearing before the trial Court or to the respondent herself directly. If the cost is paid and memo is filed on or before 10.07.2024, then on the hearing that follows 10.07.2024, the respondent/R.W.1 shall be present before the Court and the petitioner shall complete the cross-examination on the same day and no further adjournment and further interlocutory applications shall be permitted on behalf of the petitioner.

(iii) Thereafter, the trial Court can complete the proceedings as expeditiously as possible and pass final order, in any event, not later than two months.



CRP(MD).Nos.1208 and 1209 of 2024

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(iv) As far as the maintenance arrears are concerned, it will be open for the respondent to enforce and realise the same in the manner known to law.

No costs. Consequently connected Miscellaneous Petitions are closed.

02.07.2024

Index : Yes / No
Internet : Yes/ No
Rmk

To

- 1.The Subordinate Judge, Usilampatti.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.



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CRP(MD).Nos.1208 and 1209 of 2024

D.BHARATHA CHAKRAVARTHY, J.

Rmk

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