



C.R.P. (MD) Nos. 1571 and 1572 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2024

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P. (MD) Nos. 1571 and 1572 of 2022

and

C.M.P. (MD) No.6756 of 2024

Sivanukumar

... Petitioner/

Respondent

(in both CRPs)

-VS-

Gurulakshmi

... Respondent/

Petitioner

(in both CRPs)

COMMON PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Fair order and Decreetal order dated 07.01.2022 made in I.A.Nos.1 and 2 of 2021 in H.M.O.P.No.112 of 2018 on the file of the Family Court, Srivilliputhur and allow the Civil Revision Petition.

For Petitioner : Mr.V.Sasikumar (both petitions)

For Respondent : Mr.T.Antony Arul Raj (both petitions)



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COMMON ORDER

The petitioner has filed these revision petitions aggrieved by the orders dated 07.01.2022 in I.A.Nos.1 of 2021 and 2 of 2021 in H.M.O.P.No.112 of 2018.

2. The petitioner is the Husband. The respondent/wife has filed the above original petition for divorce on the ground of cruelty. It can be seen that the respondent has already filed the counter-affidavit to the original petition and the matter was taken up for trial. The petitioner side was examined and cross-examined. For the respondent side also three witnesses were examined and the when the matter was posted for further evidence of the respondent, these two applications were filed. The prayer of I.A.No.1 of 2021 is to reopen the case for the purpose of leading further evidence. The I.A.No.2 of 2021 is filed to seek permission of the Court to file the additional counter statement.

3. When the entire evidence in the trial is over, when the matter is posted for arguments, the above applications have been filed. A detailed additional counter is now sought to be filed by the petitioner. The Trial Court upon going



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through the 39 pages additional counter and the facts and circumstances of the case, dismissed the petition, as against which, the petitioner is before this Court.

4. Mr.V.Sasikumar, the learned Counsel for the petitioner would submit that firstly, when certain important facts and circumstances were not mentioned in the original counter-affidavit filed, because of lack of proper legal advice, the petitioner could not be put to grave prejudice. No prejudice will be caused to the petitioner side by allowing the additional counter-affidavit as they can contradict the same if any additional evidence is let in by the petitioner. He would further submit that the reasoning given by the Trial Court only to dispose of the matter at an early date may not be correct when the parties have got a case on merits, the same has to be given preference.

5. Per contra, Mr.T.Antony Arul Raj, the learned Counsel for the respondent, filing an additional typed set of papers, would submit that already the chief and cross-examination of P.W.1 itself was over as early as on 04.01.2020 and now the case is being protracted at the whims and fancy of the petitioner.



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6. I have considered the rival submissions made on either side and perused the material records of the case.

7. This original petition was filed a long ago in the year 2018. The parties have gone into trial based on the pleadings and at the verge of conclusion of trial, new pleadings cannot be permitted to be filed, that too, in very many detail and for that purpose the case cannot be reopened. When the evidence of both sides on the basis of the pleadings have been closed and the matter is posted for arguments, I do not find any error in the order of the Trial Court dismissing both the I.A.Nos.1 and 2 of 2021. In that view thereof, these Civil Revision Petitions lack merits and are accordingly dismissed. In view of the fact that the matter is pending from the year 2018, the learned Judge, Family Court, Srivilliputhur, is requested to take up the matter as expeditiously as possible. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index : Yes
NCC : Yes

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To

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

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