

Meenal Vs. Sedhu

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Court : Chennai Madurai

Decided On : Mar-18-2016

Judge : The Honourable Ms. Justice V.M. Velumani

Appeal No. : C.R.P(MD) No. 378 of 2016 (PD)

Appellant : Meenal

Respondent : Sedhu

Judgement :

(Prayer: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to set aside the Fair and Decretal Order passed in I.A.No.3 of 2016 in I.A.No.741 of 2015 in un-numbered H.M.O.P.No of 2015, dated 29.01.2016 on the file of the Learned Family Judge, Madurai and consequently direct the Learned Family Judge, Madurai to waiving off the statutory period of 6 months and to dispose of the main H.M.O.P. Petition within stipulated time framed by this Hon'ble Court.)

1. This Memorandum of Civil Revision Petition is filed against the order of dismissal, dated 29.01.2016 in I.A.No.3 of 2016 in I.A.No.741 of 2015 filed by the Revision Petitioner, under Section 13(B2) of the Hindu Marriage Act, 1955 seeking leave to file the divorce petition within the period of one year.

2. The marriage between the petitioner and the respondent was solemnized on 20.08.2015. Difference of opinion have arisen between them and therefore, it

became impossible for them to live as husband and wife inspite of the advice of the elders. Therefore, they filed petition under Section 13(B) of the Hindu Marriage Act, 1955 for divorce, by mutual consent. The petitioner also filed an application in I.A.No.3 of 2016 for waiving the Cooling period of six months and prayed for decree, immediately. The respondent/husband has given consent for the same. The learned Judge dismissed the application, on the ground that the petitioner has not given any sufficient reasons for waving off the cooling period.

3. The learned counsel for the petitioner contended that both the petitioner and the respondent are well educated and they are not able to continue their matrimonial life inspite of the advice of the elders. The petitioner wants to go to foreign country for her higher studies. He further submitted that the petitioner has to give a declaration to the effect that no case is pending before any Court in India for the purpose of Visa.

4. The learned counsel for the respondent submitted that the respondent is working in I.T., company at Bangalore and he has no objection to allow the Civil Revision Petition.

5. The petitioner and the respondent filed un-numbered H.M.O.P., for divorce by mutual consent and also filed an application in I.A.No.3 of 2016 for waiving the Cooling period of six months. The petitioner has stated that she want to go to foreign country for higher studies and job and prayed for waiving the Cooling period of 6 months. The respondent has no objection for allowing the petition. The learned Judge after considering the facts and materials on record, dismissed the application on the ground that the petitioner has not furnished the details about going to foreign country for higher studies.

6. I have heard the learned counsel appearing for the petitioner and the respondent and also perused the entire materials on record.

7. Considering the educational qualification of the petitioner and the respondent and the contention that inspite of the best efforts and counselling by elders and that the petitioner wants to go to foreign country for her higher studies, the Civil Revision Petition is allowed and the impugned order, dated 29.01.2016 in I.A.No.3

of 2016 in I.A.No.741 of 2015 passed by the Family Judge, Madurai is set aside. I.A.No.3 of 2016 is allowed. The learned Judge is directed to number the H.M.O.P., filed by petitioner and respondent and pass orders on merits on or before 07.04.2016. No costs.

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