

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

C.R.P.(PD).No.1425 of 2015
and M.P.No.1 of 2015

M.Saraswathi

... Petitioner

Vs.

P.Anthonymuthu

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 20.03.2015 passed in the deposition of P.W.2 in I.D.O.P.No.120 of 2006 on the file of the I Additional District Court, Salem.

For Petitioner : Mrs.Chitra Sampath, Senior Counsel
for Mr.T.S.Baskaran

For Respondent : Mr.D.Ashok Kumar

ORDER

Challenging the order passed in I.D.O.P.No.120 of 2006 on 20.03.2015, the petitioner has filed the above Civil Revision Petition.

2.The petitioner filed the Original Petition in I.D.O.P.No.120 of 2006 on the file of the I Additional District Court, Salem under Section 25 (iii) of

the Special Marriages Act, 1954 for annulling the marriage. The respondent filed his counter and is contesting the petition.

3.The petitioner took out applications to issue subpoena to the Village Administrative Officer to give evidence and to file a report that Saraswathi resided in the address (i.e.) 121/74, North Ammapet, Sathiya Nagar, Salem for the past ten years and to give evidence and to file report that no person by name Saraswathi resided in the address (i.e.) 106, Bazaar Street, Attur Town for the past ten years. The trial Court allowed the applications and pursuant to the orders of the I Additional District Court, Salem, the Village Administrative Officer was examined as P.W.2. In his evidence, the Village Administrative Officer had deposed that the property in 106, Bazaar Street, Attur Town belongs to one Lakshmi, wife of Anna Durai and that she has not let out the said premises to any 3rd party at any time. Further, the Village Administrative Officer also recorded the statement of the said Lakshmi, after taking into consideration her Family Card, Voter's ID and property tax receipts. The petitioner contended that the Village Administrative Officer, who was examined as P.W.2, should be directed to produce the Family Card, Voter's ID and property tax receipts before the trial Court. However, the trial Court rejected the contention of the petitioner stating that the Village Administrative Officer was not

summoned for producing the document and that he was summoned only for the purpose of giving evidence with regard to the residence of the petitioner. Against this order dated 20.03.2015, the petitioner has filed the above Civil Revision Petition.

4.The learned counsel for the respondent submitted that since the Family Card, Voter's ID and property tax receipts belongs to some 3rd party, the said documents cannot be marked through the Village Administrative Officer.

5.However, Mrs.Chitra Sampath, learned senior counsel for the petitioner submitted that unless those documents are marked, the case of the petitioner cannot be established before the trial Court.

6.As rightly contended by the learned counsel for the respondent, since the Village Administrative Officer is not a party to the Family Card, Voter's ID and property tax receipts, he cannot mark those documents. However, since he has stated that a statement was prepared by him with regard to the enquiry conducted by him, taking into consideration the Family Card, Voter's ID and property tax receipts, the Village Administrative Officer can produce the statement prepared by him before the trial Court.

7.In these circumstances, I direct the I Additional District Court, Salem to direct P.W.2, the Village Administrative Officer, Attur Town to produce the statement prepared by him at the time of his examination. The statement prepared by Village Administrative Officer can be produced by him and the parties are at liberty to cross examine the admissibility and correctness of the documents at the time of cross examination.

8.With this observation, the order passed by the trial Court on 20.03.2015 is modified and the Civil Revision Petition is disposed of on the above terms.

9.Since the Original Petition is pending from 2006, I direct the I Additional District Court, Salem to dispose of the Original Petition in I.D.O.P.No.120 of 2006, on merits and in accordance with law, within three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

24.07.2015

To

The I Additional District Court,
Salem.

M.DURAIWAMY,J.
va

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