

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:22.9.2015

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

C.R.P.PD.No.1070 of 2009

& M.P.No.1 of 2009

Kumar @ Shanmugasundaram
Petitioner

...

Versus

Kavitha @ Poongodi
...Respondent

Prayer: Revision petition is filed to set aside the fair and final order dated 06.01.2009 and made in I.A.No.366 of 2007 in H.M.O.P.No.237 of 2007 on the file of the Principal Sub Judge, Erode.

For Petitioner : Mr.V.S.Kesavan

For Respondent : I.C.Vasudevan

ORDER

This memorandum of civil revision has been directed against the fair and decretal order dated 06.01.2009 and made in I.A.No.366 of 2007 in H.M.O.P.No.237 of 2007, on the file of the learned Principal Subordinate Judge, Erode.

2. The revision petitioner herein is the petitioner in the matrimonial proceedings in H.M.O.P.No.237 of 2007, whereas the respondent herein is the respondent therein.

3. It is manifested from the records that the revision petitioner herein had filed a petition in H.M.O.P.No.237 of 2007 before the learned Principal Subordinate Judge, Erode under Section 13 (1) (a) (b) of the Hindu Marriage Act as against the respondent herein seeking the relief of divorce on the ground of cruelty and harassment.

4. It was contested by the respondent and during the pendency of that petition, the revision petitioner had taken out an application in I.A.No.366 of 2007 under Order VI, Rule 17 and Section 151 of Civil Procedure Code to amend the petition by adding a new paragraph namely 5(a). This petition was contested by the respondent on the ground that by filing an application for amendment, the revision petitioner wanted to change the entire structure of the original matrimonial proceedings.

5. Accepting the contention put forth by the respondent, the learned Principal Subordinate Judge, Erode, had proceeded to dismiss that application on 06.01.2009. Challenging the correctness of the said order, now the petitioner stands before this court with this revision petition.

6. Heard, Mr.V.S.Kesavan, learned counsel for the revision petitioner. Mr.I.C.Vasudevan, learned counsel for the respondent has fairly conceded and submitted that the petition might be allowed provided that the amendment which is intended to be made in the main petition is not prejudicial to the case of the respondent. Keeping in view the submission made by Mr.I.C.Vasudevan, learned counsel for the respondent and on hearing Mr.V.S.Kesavan, learned counsel for the petitioner, this court finds that in the interest of justice, it may be expedient to allow this revision petition.

7. Accordingly, the revision petition is allowed and the impugned order dated 06.01.2009 and made in I.A.No.366 of 2007 is set aside and the office of the Registry of the learned Principal Subordinate Judge, Erode is directed to carry out necessary amendments in the main petition without seeking any formal application and the learned Principal Subordinate Judge, Erode is directed to dispose of the matrimonial proceedings in H.M.O.P.No.237 of 2007 as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous petition is closed. No order as to costs.

22.09.2015

Dn

Index:Yes/No.
Internet:Yes/No.

T. MATHIVANAN.J,
dn

To:

The learned Principal Subordinate Judge,
Erode.

C.R.P.PD.No.1070 of 2009
& MP. No.1 of 2009

22.09.2015