

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.3325 of 2015

and

M.P.No.1 of 2015

A.Muthu Anumanthan
S/o.K.Arumugham

.. Petitioner/Petitioner/Petitioner

Vs.

M.Prema
W/o.A.Muthu Anumanthan

.. Respondent/Respondent/Plaintiff

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 07.08.2015 made in I.A.No.1123 of 2015 in O.P.No.1949 of 2011 on the file of the III Additional Principal Judge, Family Court, Chennai.

For Petitioner : Mr.T.G.Balachandran

For Respondent : Mr.K.S.Ganesh Babu

सत्यमेव जयते
O R D E R

The revision petitioner is the husband. He had filed HMOP.No.1949 of 2011 on the file of the III Additional Principal Judge, Family Court, Chennai seeking for divorce on the ground of cruelty.

2. While so, the revision petitioner filed an application in I.A.No.1123 of 2015 in HMOP.No.1949 of 2011 to amend the petition to include certain relevant facts that happened subsequent to the filing of HMOP. But the Trial Court dismissed the said application on 07.08.2015 on the ground that those

events happened subsequent to the filing of HMOP. Against the aforesaid order, the present Civil Revision Petition has been preferred.

3. When the Civil Revision Petition came up for admission on 20.08.2015, Notice of Motion returnable by 21.09.2015 was ordered and an order of interim stay till then was also granted. Today when the matter is listed, both the learned counsel for the petitioner as well as the learned counsel for the respondent are heard.

4. It is admitted that the trial is yet to commence. The Trial Court has come to the conclusion that the subsequent events namely, the filing of complaint for dowry demand by the respondent/wife as well as the complaint under Domestic Violence Act made by the respondent/wife are irrelevant for adjudication of HMOP.No.1949 of 2011, since those events took place after the filing of the HMOP.

5. In my considered view, the reasoning given by the Trial Court is unsustainable. When the petitioner/husband wants to bring on record certain facts by way of amendment of pleadings, the Trial Court can not decide as to whether the petitioner/husband can seek for divorce on the ground of cruelty by placing reliance on those facts, viz., the criminal case relating to dowry demand and the complaint under the Domestic Violence Act. Such consideration would arise at the time of finally disposing the matter. The Trial Court cannot simply reject the application seeking to amend the petition in HMOP.No.1949 of 2011 to bring those facts as part of the pleadings, particularly when the amendment is sought for before commencement of trial.

6. In these circumstances, I have no hesitation to set aside the order dated 07.08.2015 made in I.A.No.1123 of 2015 in HMOP.No.1949 of 2011. However, I make it clear that the issue whether the subsequent pleadings can be relevant materials for seeking divorce can be decided only at the time of trial.

7. In fine, the Civil Revision Petition is allowed with the aforesaid observations. Consequently, connected miscellaneous petition is closed. No costs.

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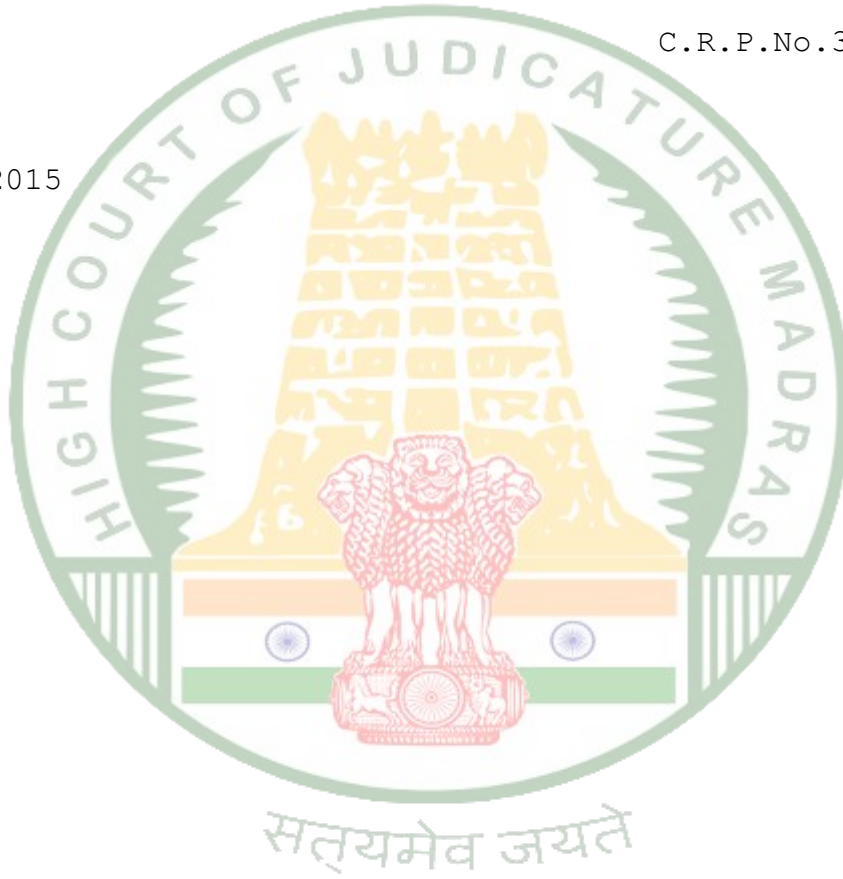
To

The III Additional Principal Judge,
Family Court, Chennai.

+1 CC to MR. T.G.Balachandran Advocate. SR.NO. 56680
+1 CC to MR. K.S.Ganesh Babu Advocate. SR.NO.56744

C.R.P.No.3325 of 2015

CO-KJI
JD 04/11/2015



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