

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.06.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.647 of 2014 &
M.P.No.1 of 2014

Minor Nithis Kumar
S/o.Karuppusamy
Rep. By mother/next friend
Maheshwari

... Petitioner

v.

Minor Vahash
S/o.Karuppusamy
Rep. By mother/next friend
Sudha

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 11.12.2013 made in I.A.No.508 of 2013 in O.S.No.75 of 2007 on the file of learned District Munsif Court, Gobichettipalayam.

For Petitioner : Mr.N.Manoharan

For Respondent : Mr.V.Anandhamoorthy

O R D E R

Challenging the fair and final order passed in I.A.No.508 of 2013 in O.S.No.75 of 2007 on the file of District Munsif Court, Gobichettipalayam. the 5th defendant has filed the above Civil Revision Petition.

2. The plaintiffs filed the suit in O.S.No.75 of 2007 for partition. The 5th defendant was impleaded in the suit on 20.09.2011. Thereafter, the 5th defendant filed his written statement on 08.10.2012. Thereafter, on 15.6.2013, the 5th defendant took out an application in I.A.No.508 of 2013 under Order VIII Rule 9 of CPC to file additional written statement. Along with the application, the 5th defendant also filed additional written statement wherein, he has made averments regarding the marriage of his mother and also the order passed in H.M.O.P No.55 of 2004 whereby a decree for divorce was granted by the Trial Court. Further, the 5th defendant has also stated about the marriage certificate dated 8.7.2002 in the additional written statement.

3. The application filed by the 5th defendant was contested by the plaintiff and the Trial Court dismissed the application.

4. On a perusal of the materials available on record, it could be seen that earlier the defendants 3 and 4 have filed an application in I.A.Nos.331 & 332 of 2012 to reopen and recall the case for the purpose of marking

marriage certificate of their mother. The said applications were dismissed by the Trial Court on 6.8.2012. Aggrieved over the same, the defendants 3 and 4 preferred Civil Revision Petitions in C.R.P.(PD) Nos. 3449 and 3450 of 2012 and this court also dismissed the Civil Revision Petitions and confirmed the order passed by the Trial Court on 01.10.2012.

5. Now, for the very same reason, the 5th defendant has filed the present application i.e., I.A.No.508 of 2013 seeking permission of this court to file additional written statement, which was rightly dismissed by the Trial Court.

6. When this court had rejected the Civil Revision Petitions filed by the defendants 3 and 4 to produce the marriage certificate of their mother, the plea raised by the defendants cannot be allowed to be taken in the additional written statement by the 5th defendant. If this court was convinced at the time of passing orders in the Civil Revision Petitions in C.R.P.(PD) Nos. 3449 and 3450 of 2012, this court would have permitted the defendants 3 and 4 to produce the marriage certificates. If the present application is allowed, it would only amounts to interfering with the orders passed in C.R.P.(PD) Nos. 3449 and 3450 of 2012, dated 01.10.2012. In these circumstances, the Trial Court has rightly dismissed the application.

7. In view of the above, I do not find any error or irregularity in the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

17.06.2015

Rj

To

The District Munsif Court,
Gobichettipalayam.

M. DURAISWAMY,J.,

C.R.P.(PD)No.647 of 2014 &
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