



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 9/1/2015

C O R A M

WEB COPY

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. NPD(MD) No.2 of 2015

Jegatheeswaran

...Petitioner

Vs

Parani Selvi

...Respondent

Petition filed under Article 227 of the Constitution of India against the fair and decretal order passed in unnumbered O.S.No.--- of 2014 on the file of the District Munsif-cum-Judicial Magistrate Court, Peraiyur dated 18/7/2014.

For petitioner ... Mr.S.Vellaichamy

O R D E R

The suit is filed by the petitioner, before the District Munsif Court, Peraiyur, for declaration that the marriage was solemnised between him and the respondent on 14/7/2013 is void. The suit was rejected without numbering by the District Munsif. Aggrieved by the same, this Civil Revision Petition has been filed.

2. Heard the learned counsel for the petitioner.

3. It is contended by the petitioner that the marriage between him and the respondent is void in view of the fact that the respondent was already married and the first marriage was in subsistence. Therefore, the marriage of the petitioner with the respondent during the subsistence of the first marriage of the respondent is void, as per Section 5 (1) of the Hindu Marriage Act. When the petitioner is seeking declaration that his marriage is void, invoking the Hindu Marriage Act, the proper forum is to present the suit is only before the Sub-Court, Madurai. Whereas the petitioner for the reasons best known to him has filed the suit under the Specific Relief Act, contending that the defendant had suppressed the subsistence of earlier marriage and sought for declaration of his marriage is void. However, the petitioner has to get the same declared by the Court of Law.

4. Section 19 of the Hindu Marriage Act, 1955 is as follows:-

"Court to which petition shall be presented - Every petition under this Act shall be presented to the District Court within the local limits of whose ordinary original civil jurisdiction -



(i). the marriage was solemnized, or

(ii). The respondent, at the time of the presentation of the petition, resides, or

{(iii - a). in case the wife is the petitioner, where she is residing on the date of presentation of the petition, or}

(iv). The petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time, residing outside the territories to which this Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive}."

5. As the District Munsif Court does not have the inherent jurisdiction to try the suits filed under the Hindu Marriage Act, the proper forum would be the Sub-Court. The rejection of the plaint by the District Munsif also is not correct. The learned District Munsif, ought to have returned the plaint for presentation of the same by the plaintiff before the appropriate forum.

6. Accordingly, a direction is issued to the District Munsif to return the plaint within ten days from the date of receipt of the copy of this order and the petitioner is directed to represent the same before the appropriate forum within a period of two weeks thereafter.

7. With the above direction, this Civil Revision Petition is disposed of. No costs.

Sd/
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)

To
The District Munsif-cum-Judicial Magistrate Court, Peraiyur

+1cc to Mr. S.Vellaichamy Advocate in SR.No. 433

TS/23.02.2015/2P-3C

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09.01.2015