



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.R.P (MD) No.2787 of 2015

Dr.S.Senthilnathan

.. Petitioner

Vs.

1.Viswapriya

2.Johnson

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the Fair and Decretal order dated 21.08.2015 passed in an unnumbered H.M.O.P.No.-----/2015 on the file of the Family Court, Tirunelveli.

For Petitioner : Mr.S.P.Maharajan

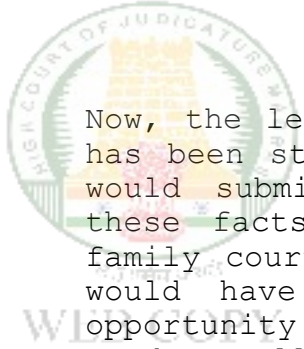
ORDER

Challenging the order dated 21.08.2015 and made in an unnumbered matrimonial petition, which seems to have been filed under Section 13(1) (i), 13(1)(ia) and 13(1)(ii) of the Hindu Marriage Act, 1955 on the file of the Family Court, Tirunelveli. This revision is filed by the revision petitioner/husband.

2. As it is manifested from the averments of the petition, the marriage between the revision petitioner and the first respondent was said to have been solemnized on 20.11.1994 at Ananda Thirumana Mandapam, Rajapalayam. Out of their wedlock, the first respondent had delivered a female child by name Srinithi on 02.01.1997 at Rajapalayam, now she is aged about 17 years. Since a fissured crack was developed in their matrimonial relationship, the petitioner and the first respondent have been living separately from 2013 onwards.

3. Under this circumstance, seeking the relief of divorce, on the ground of cruelty, desertion and adultery, the revision petitioner has filed a petition under Section 13(1)(i), 13(1)(ia) and 13(1)(ii) of the Hindu Marriage Act, 1955. That petition was rejected simply, by the learned family court Judge, on the ground that no proof for the marriage of the petitioner along with the first respondent was filed and that the identification of the petitioner, who is said to be the husband of the first respondent was very much essential and for this purpose the family court required a joint photograph of the petitioner along with the first respondent. Only for the non-production of the above said documents, that petition was rejected.

4. Now Mr.S.P.Maharajan, learned counsel appearing for the revision petitioner, while advancing his arguments has exhibited the marriage certificate dated 20.11.1994 along with the family card of the petitioner as well as of the first respondent, to show that after the solemnization of their marriage, they were living as husband and wife at Tirunelveli.



Now, the learned counsel has also submitted that their daughter Srinithi has been studying in an engineering college. Under this circumstance he would submit that the rejection of the petition without considering these facts is against the principles of natural justice and if the family court had returned the matrimonial proceedings with a query that would have been represented with the supporting documents. But no opportunity was given to the revision petitioner so as to enable him to produce all the documents and hence he has urged to set aside the impugned order dated 21.08.2013.

5. This Court has seen the marriage invitation of the petitioner and the first respondent dated 20.09.2011. This Court has also seen the family card pertaining to the family of the petitioner, consisting of the first respondent being the wife and the female child Srinithi.

6. Having been taken into consideration of the above said facts, this Court finds that the order of rejection is liable to be set aside and a direction may be given to the family court Judge to return the original matrimonial unnumbered petition to the petitioner so as to enable him to represent the same along with the supporting documents.

7. In view of the above fact, this Civil Revision Petition is allowed at the admission stage itself by setting aside the impugned order dated 21.08.2015. The family court Judge, Tirunelveli is directed to return back the entire bundle along with the unnumbered original petition of the revision petitioner so as to enable him to re-submit the same along with the supporting documents. After representation of the matrimonial petition along with the supporting documents, the family court Judge, Tirunelveli is directed to dispose the same on merits in the manner known to law, after giving notice to the other side. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar.

To
Family Court,
Tirunelveli.

+1CC to Mr.C.P.MAHARAJAN, Advocate, SR.No. 358

C.R.P (MD) No.2787 of 2015
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AM/07.01.2016/GSV.AN/SAR-II/2P/3C