



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP (MD).No.588 of 2016 and CMP(MD).No.2588 of 2016

V. Srinivasan : Petitioner
Vs.

S. Nagajothi : Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the non-speaking order of return in I.A.S.R.No.8479 of 2016 in HMOP.No.514 of 2014 on the file of III Additional Sub Court, Madurai, dated 08.03.2016 and direct the Hon'ble Court to number the I.A.S.R.No.8479 of 2016 in HMOP.No.214 of 2014.

For Petitioner : M/s.J.JAYAKUMARAN

ORDER

This Civil Revision Petition is filed to set aside the non-speaking order of return in I.A.S.R.No.8479 of 2016 in HMOP.No.514 of 2014 on the file of III Additional Sub Court, Madurai, dated 08.03.2016 and direct the Hon'ble Court to number the I.A.S.R.No.8479 of 2016 in HMOP.No.214 of 2014.

2. The revision petitioner / husband filed HMOP.No.514 of 2014 for dissolution of marriage. According to the petitioner, the respondent is not having normal sexual life from the first day of marriage. On the first day of marriage itself, the respondent informed the petitioner that she married the petitioner only due to the compulsion of her mother. Therefore, the petitioner filed HMOP.No.514 of 2014, for dissolution of marriage. He also filed I.A.No.77 of 2015 to subject the respondent for medical examination. The respondent opposed the same. After hearing both parties and Judgments relied on by the parties, the learned Judge dismissed the application on 20.01.2016. The trial commenced. The petitioner completed his evidence. During cross examination of the respondent, according to the petitioner, she has stated that she is willing to undergo medical examination. The learned Judge returned the application on the ground that the earlier application filed for very same relief was dismissed on merits and for the very same prayer, this petition is not maintainable. Against that, the petitioner has filed the present Civil Revision Petition.

3. The learned counsel for the petitioner contended that the learned Judge failed to see that on earlier occasion the respondent did not agree for medical examination. Therefore, the said application was dismissed. Now, in the cross examination, the respondent stated that she is willing to undergo medical examination. In the circumstances, the



learned Judge ought to have numbered the application and decide the application on merits. Therefore, he prayed for allowing the Civil Revision Petition.

4. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

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5. From the materials available on record it is seen that the earlier application filed by the petitioner for the very same relief was dismissed on merits. The petitioner has not initiated any further proceedings against the said order and it cannot be said that there is a change of circumstance, on the ground that the respondent is willing to undergo medical examination. In the circumstances, order of the learned Judge returning the application is valid and legal.

6. In the result, the Civil revision petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

/True copy/

Sub Assistant Registrar

To

The III Additional Sub Court, Madurai,

CRP (MD).No.588 of 2016 and
CMP(MD).No.2588 of 2016

SH/SK-SKN:28.03.2016:2P/2C

15.03.2016