

HONOURABLE SRI JUSTICE RAJA ELANGO
CIVIL REVISION PETITION No:4728 OF 2016

ORDER:

1. This revision petition is filed by the petitioners aggrieved by the order dated 9.6.2016 passed in OP (SR) No.1619 of 2016 by the Senior Civil Judge, Amalapuram, East Godavari District.

2. The 1st petitioner is the husband of the 2nd petitioner. Both the petitioners filed an application in the above OP (SR) under Section 13(B) of the Hindu Marriage Act seeking to grant decree of divorce by mutual consent. The learned Senior Civil Judge rejected the application on the ground of jurisdiction. While rejecting the application, the learned Senior Civil Judge observed that the marriage of the petitioners was performed at Tirumala, Chittoor District and that the parties last resided at Chennai and they never lived together within the jurisdiction of the said Court of Amalapuram. Aggrieved by the order of the learned Senior Civil Judge, Amalapuram, both the petitioners filed this revision.

3. While placing reliance on the amended provision of Section 19 of the Hindu Marriage Act, the learned Counsel for the petitioners submitted that Section 19(iiiia) of the Act enables the wife to file the petition in the Court having jurisdiction over the place in which she resides on the date of its presentation, and as per the said provision, the present OP is maintainable.

4. Heard and perused the material available on record.

5. The petitioners filed the application in the above OP(SR) under Section 13(B) of the Hindu Marriage Act to dissolve their marriage by mutual

consent. Admittedly, the 2nd petitioner-wife is residing within the jurisdiction of the Court of Amalapuram. Section 19(iii) of the Hindu Marriage Act specifically says that if the wife is the petitioner, she can file an application before the Court where she is residing on the date of presentation of the application including the application filed for mutual consent. The intention of the legislature is to enable the wife to prefer an application in the place where she resides due to matrimonial disputes. Therefore, this Court is of the view that the order passed by the learned Senior Civil Judge is not sustainable and hence, the same is liable set aside.

6. For the foregoing reasons, the order dated 9.6.2016 passed by the Senior Civil Judge, Amalapuram, East Godavari District, in OP (SR)No.1619 of 2016 is set aside. The learned Senior Civil Judge, Amalapuram is directed to number the OP and dispose of the same in accordance with law.

7. Accordingly, the Civil Revision Petition is disposed of. No costs. Consequently, miscellaneous petitions pending, if any, shall stand closed.

Justice Raja Elango

Date: 28th September, 2016
Nn.

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28.09.2016

Nn.