

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.(PD).No.87 of 2014
and M.P.No.1 of 2014

P.Gayathiri

... Petitioner

Vs.

L.Rajendran

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 03.12.2013 made in I.A.No.140 of 2013 in H.M.O.P.No.311 of 2012 on the file of the II Additional Sub Court, Erode, Erode District.

For Petitioner : Mr.S.Dhanasekaran

For Respondent : Mr.E.P.Senniyangiri

ORDER

The revision petitioner has filed H.M.O.P.No.311 of 2012 seeking for dissolution of marriage under Section 13(1)(ia) of the Hindu Marriage Act before the Subordinate Court, Erode.

2.During the pendency of the said petition, an application in I.A.No.140 of 2013 was filed by the revision petitioner with a prayer to

examine the petitioner by an expert Doctor to prove her virginity. The trial Court rejected the petition on the ground that in the Original Petition filed by the revision petitioner, she has not refused the consummation of marriage between the petitioner and the respondent. Further, in her evidence also the revision petitioner admitted that the marriage was consummated. Such being the statement made in the Original Petition and in the deposition, the trial Court has rejected the petition for medical examination.

3.The revision petitioner cannot file such a petition seeking for medical examination after making a specific pleading and deposition. Such petitions being filed to suit the convenience of the parties has to be deprecated. In the case on hand, it is a case of divorce and the allegations and counter allegations are already set out in the Original Petition and the respective parties have to prove their cases before the trial Court by producing oral and documentary evidences and filing a petition seeking for examination by a Doctor cannot be entertained, more specifically when there is a specific pleading by the respective parties. Hence, the rejection of the application by the trial Court is in accordance with law and there is no infirmity in the order of the trial Court.

4. Accordingly, the order passed in I.A.No.140 of 2013 in H.M.O.P.No.311 of 2012 dated 03.12.2013 is confirmed. In the result, the Civil Revision Petition in C.R.P.(PD).No.87 of 2014 is dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Index : Yes
Internet : Yes
va

24.02.2017

To

1.The II Additional Sub Court,
Erode, Erode District.

S.M.SUBRAMANIAM,J.
va

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