

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2017

CORAM :

THE HONOURABLE TMT.JUSTICE PUSHPA SATHYANARAYANA

CRP (PD).No.1647 of 2016

Dr.G.Mythily

.. Petitioner

Versus

Dr.V.Pari

.. Respondent

Prayer: This Civil Revision Petition filed Under Article 227 of the Constitution of India, against the order and decree passed by Subordinate Judge, Ranipet, Vellore District in I.A.No.NIL of 2016 in H.M.O.P.No.61 of 2013, dated 14.03.2016, received by the Petitioner on 01.04.2016.

For petitioner : Mr.R.Sivakumar

For Respondent : Ms.S.Jayakumari

ORDER

This revision petition is filed by the wife in a matrimonial dispute, challenging the order passed in un-numbered I.A. in H.M.O.P.No.61 of 2013 under Section 12 (2) (a) (1). The only reason on which the application has been filed is that the husband filed H.M.O.P.No.89 of 2010, under Section 12 of the Hindu Marriage Act, 1955 for annulling the marriage dated 03.09.2008, after one year from the date on which he allegedly came to know about the fraud played on him. Section 12(2)(a)(1) of the Hindu Marriage Act, 1955, reads as follows:

"12. Voidable marriages – (2) Notwithstanding anything contained in sub-section (1), no petition for annulling a marriage-

(a) on the ground specified to clause (c) sub-section (1), shall be entertained if-

- (i) *the petition is presented more than one year after the force had ceased to operate or, as the case may be, the fraud had been discovered;*

2. The above provision specifically specifies that within a period of one year from the date of knowledge of the fraud played by either of the parties, an application under Section 12 of the Act has to be filed for annulling the marriage on the grounds specified in the said Section. However, the Original Petition was filed beyond the period of one year and therefore, objection is raised by the petitioner/wife as regards the maintainability of the petition.

3. It is stated by the learned counsel appearing for the respondent/husband that the Original Petition was filed in the year 2013 and it is still in the preliminary stage without any progress and stated that the Original Petition shall be converted into one filed under Section 13 of the Hindu Marriage Act. The learned counsel appearing for the revision petitioner has got no objection for converting the Original Petition into one under Section 13 of the Hindu Marriage Act after observing the formalities.

4. Accordingly the parties are permitted to carry out necessary amendment in the Original Petition to convert it into a petition Under Section 13 of the Hindu Marriage Act, 1955, within a period of two weeks from the date of receipt of a copy of the order and the learned counsel for the respondent in the Original Petition has got no objection and he is also prepared to file a Memo to that effect before the Court below. After amendment is carried out, the learned Sub Court, Ranipet is directed to dispose of the H.M.O.P on or before October 31, 2017,

without further extension of time.

5. The Civil Revision Petition is disposed of in the above terms. No costs. Consequently, connected Miscellaneous Petition is also closed.

elp

01.03.2017

Index : Yes/No
Internet : Yes/No

To

The Subordinate Judge,
Ranipet,
Vellore District

PUSHPA SATHYANARAYANA, J.

elp

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