

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.06.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No. 2783 of 2013

Navappan

...Petitioner

Vs

1.Kavitha
2.Loganathan

...Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order in I.A.No.308 of 2013 in M.O.P.No.261 of 2008, on the file of Family Court, Pondicherry dated 16.05.2013.

For Petitioner : Mr.V.Raghavachari
For Respondents : Mr.R.Thiagarajan, [for R1]

ORDER

The petitioner, in a matrimonial proceeding initiated against the first respondent, filed an application in I.A.No.308 of 2013 to examine two of his children as witnesses. The application was opposed by the first respondent. The learned Judge, Family Court, Puducherry dismissed the application, primarily on the ground that the petitioner has not mentioned the purpose for which the witnesses are sought to be examined. The other reason appears to be the failure on the part of the petitioner to state in the Original petition,

as to whether the children witnessed the act of adultery. The order is under challenge at the instance of the petitioner in I.A.No.308 of 2013.

2. I have heard the learned counsel for the petitioner. I have also heard the learned counsel for the first respondent.

3. The petitioner initiated proceedings for divorce against the first respondent on the ground of adultery. The petitioner, after his examination, filed the application in I.A.No.308 of 2013 to examine his children. The children were minor at that point of time. The children are major now.

4. The petitioner, being the petitioner in M.O.P. No. 261 of 2008, is entitled to examine witnesses on his side. It is not for the Court to say as to whether the evidence of such witnesses are necessary. In fact, the witnesses are none other than the children born to the petitioner and the first respondent in their lawful wedlock. Since the children are now major and in view of the background facts, I am inclined to allow this civil revision petition.

5. In the result, the order dated 16 May 2013 is set aside. The application in I.A.No.308 of 2013 is allowed. The learned Judge, Family Court, Puducherry is directed to post the matter on a particular day for examination of the witnesses. The children of the petitioner should be examined in chambers. The respondent should be given reasonable

opportunity to cross examine the witnesses. The examination should be completed on the very date on which the witnesses were directed to appear before the trial Court. The learned trial Judge should see that no adjournment is given after the presence of the witnesses. Since the matter is of the year 2008, every effort shall be taken by the learned Judge, Family Court, to dispose of the matrimonial proceedings and in any case, within a period of three months from the date of receipt of a copy of this order.

The civil revision petition is allowed as indicated above. No costs.

08.06.2017

gms

To

The Family Court, Pondicherry.

K.K.SASIDHARAN,J.

gms

C.R.P.(P.D.) No. 2783 of 2013

08.06.2017

<http://www.judis.nic.in>