



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.4 of 2017 (PD)

&

C.M.P. (MD) No.5 of 2017

Sasikala, W/o.Balamurugan

.. Petitioner/Petitioner/
Respondent

Vs.

Balamurugan, S/o.Rathinavel

.. Respondent/Respondent/
Petitioner

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, against the order dated 02.11.2016 made in I.A.No.70 of 2013 in H.M.O.P.No.53 of 2012 on the file of the Principal Subordinate Court, Kumbakonam, Thanjavur District.

For Petitioner : Mr.B.Jameel Arasu

ORDER

This Civil Revision Petition is filed against the order dated 02.11.2016 made in I.A.No.70 of 2013 in H.M.O.P.No.53 of 2012 on the file of the Principal Subordinate Court, Kumbakonam, Thanjavur District.

2. The petitioner is the respondent and the respondent is the petitioner in H.M.O.P.No.53 of 2012. The respondent filed the said H.M.O.P. to declare the marriage as null and void. The petitioner filed I.A.No.70 of 2013 for interim maintenance. According to the petitioner, the respondent is running a Tea Stall and earning a sum of Rs.2,000/- per day from the Tea Stall and a sum of Rs.75,000/- by carrying out agricultural activities.

3. The respondent filed counter affidavit and denied the income and submitted that he is working as a daily-wager in a Tea Stall and getting only a sum of Rs.200/- per day. He also contended that the petitioner and her family members suppressing the material fact and got the petitioner married to him. The respondent filed the H.M.O.P. for declaration of the marriage as null and void. The respondent is maintaining his mother and he is not getting any other income.

4. The petitioner examined herself as P.W.1 and the respondent examined himself as R.W.1 and his brother-in-law was examined as R.W.2 and did not mark any document.

5. The learned Principal Subordinate Judge, Kumbakonam, Thanjavur District, considering all the materials on record and evidence, dismissed the application holding that the petitioner has not claimed any maintenance from 04.07.2004, when she was not living with the respondent and claiming maintenance only after the respondent filed the H.M.O.P., to declare the marriage as null and void.



6. Against the said order of dismissal, dated 02.11.2016, the petitioner has come out with the present Civil Revision Petition.

7. The learned counsel for the petitioner reiterated the contentions raised in the grounds and submitted that the learned Principal Subordinate Judge ought to have seen that the petitioner is entitled to get maintenance as wife of the respondent and therefore, the reason given by the learned Principal Subordinate Judge is not correct.

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

9. From the materials available on record, it is seen that the marriage took place between the petitioner and the respondent on 04.07.2004. The respondent has stated that the petitioner and the respondent are living separately from the date of marriage. The petitioner has also stated that they are living separately for few days from the date of marriage. From the year 2004 to 2012, the petitioner did not claim any maintenance from the respondent. Only when the respondent has filed the H.M.O.P., the petitioner is claiming interim maintenance. The petitioner has not filed any document to substantiate her claim that the respondent is earning Rs.2,000/- per day from the Tea Stall as well as Rs.75,000/- from agricultural activities. In the circumstances, the learned Principal Subordinate Judge has considered the facts and evidence, rightly dismissed application. There is no illegality or irregularity in the said order warranting interference by this Court.

10. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed. The H.M.O.P. is of the year 2012. The learned Principal Subordinate Judge, Kumbakonam, Thanjavur District, is directed to dispose of the H.M.O.P., on merits and in accordance with law, as expeditiously as possible in any event, not later than 30.06.2017.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Kumbakonam,
Thanjavur District.

+1cc to M/S B.Jameel Arasu Advocate in SR. No.1065/17

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MSK/MM/25.01.2017/2P-3C

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