



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

C.R.P (MD) No.356 of 2018 (PD)

S.Kumarasamy

... Petitioner/Petitioner

Vs.

M.Logeswari

... Respondent/Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 19.12.2017 passed by the Family Court, Sivagangai in unnumbered HMOP No.--- of 2017 and to direct the Family Court, Sivagangai to number the said HMOP petition.

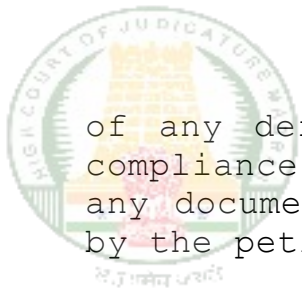
For Petitioner : Mr.T.Lenin Kumar

ORDER

This Civil Revision Petition has been filed challenging the dockor endorsement dated 19.12.2017 made in unnumbered HMOP No.--- of 2017 on the file of the Family Court, Sivagangai.

2. Heard the learned Counsel for the petitioner and perused the materials available on record.

3. The petitioner has filed a petition for divorce on the file of the Family Court, Sivagangai, which is yet to be numbered. The petitioner sought for divorce under Section 12 (1) (c) of Hindu Marriage Act on the ground that his wife was a minor at the time of marriage and _the fact that she was mentally ill was also suppressed. He also stated that the marriage was not consummated. When this petition was filed, it appears that the Family Court, Sivagangai returned the petition for production of the Certificate to show that the respondent is a minor at the time of marriage. Though the petitioner has to prove the facts, which he has stated in the petition for divorce, the Court cannot return the petition for production of evidence to substantiate his case. It is well settled that the plaint / petition cannot be rejected or returned for production of documents. Only if the petition does not disclose any cause of action, the plaint can be rejected. In case



of any defects in presentation, the plaint can be returned for compliance. However, for the purpose of production of evidence or any documents, which is required to substantiate the case pleaded by the petitioner, the Court cannot return the petition.

4. Accordingly, the Civil Revision Petition is allowed and learned Judge, Family Court, Sivagangai is directed to number the unnumbered HMOP.No--- of 2017, if it is otherwise in order as per law, untrammelled and uninfluenced by any of the observations made by this Court in this order. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The Judge,
Family Court,
Sivagangai.

Copy to: The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+ 1 cc TO Mr.Lenin kumar , Advocate in SR No. 50489

rm
AE/KK/SAR4/23.02.2018/2P/5C

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