



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:11.04.2018

CORAM

The Hon'ble Mr.Justice M.V.MURALIDARAN**C.R.P. (PD) (MD) No.574 of 2018**

T.Virumandi

... Petitioner/Petitioner

vs

Sivaranjini

... Respondent/Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order of return dated 06.03.2018 passed by the learned III Additional Sub Judge (Usilampatti Camp) Madurai in unnumbered HMOP No of 2018 and to direct the learned III Additional Sub Judge (Usilampatti Camp) Madurai to number the said HMOP.

For Petitioner

:Mr.D.S.Haroon Rasheed

For Respondent

:No appearance

ORDER

This Civil Revision Petition has been filed under Article 227 of the Constitution of India, seeking to set aside the order dated 06.03.2018 passed by the learned III Additional Sub Judge (Usilampatti Camp) Madurai in unnumbered HMOP No of 2018, in which, the petitioner has sought to file a petition for restitution of conjugal rights and the said unnumbered petition was returned on the ground that the petitioner can approach the learned Sub Court, Theni for his remedy, as the petition filed by his wife for divorce in HMOP No.287 of 2017 is already pending there. Aggrieved by the same, the petitioner is before this Court for a direction to the learned III Additional Sub Judge (Usilampatti Camp) Madurai to number the said HMOP.

2. It is the case of the revision petitioner that he is working as Conductor in a private bus and the respondent and himself fell in love with each other and subsequently, they got married in accordance with the Hindu Rites and Customs on 08.09.2016. It is the further case of the petitioner that due to difference of opinion between them, the respondent /wife had filed a petition in HMOP 287 of 2017 before the Sub Court, Theni for divorce. Since the petitioner wanted to live with the respondent, he has filed a petition before the learned III Additional Sub Judge (Usilampatti Camp), Madurai for restitution of conjugal rights, which was refused to be entertained, stating that the

petition filed by him is not maintainable before the said Court.

3. The petitioner further states that the petition was re-presented on 03.03.2018 with the explanation that the marriage had taken place well within the jurisdiction of the Court in Madurai and therefore, as per the provisions of Section 19 of Hindu Marriage Act, jurisdiction vests with the Court for trying the case. The Trial Court, being not satisfied with the explanation, has simply returned the petition without taking it on file and the said order needs interference by this Court.

4. Heard the learned counsel for the petitioner. There is no representation on behalf of the respondent.

5. It is seen that the respondent / wife is residing at present in Theni and it is admitted that the petitioner is a resident of Madurai, having a permanent address. The petitioner, in support of his claim that the marriage had taken place only in Madurai, has duly adduced evidence, namely, the Marriage Registration Certificate bearing Sl.No.354 of 2016 dated 30.12.2016, issued by the Marriage Registrar, Usilampatti. The Trial Court, without taking into account of the said certificate, has wrongly returned the petition but the provisions of Section 19 of the Hindu Marriage Act, which has clearly prescribed the jurisdictional aspect. This Court is unsatisfied with the order of return dated 06.03.2018 passed by the learned III Additional Sub Judge (Usilampatti Camp) Madurai merely on the ground of lack of jurisdiction that too without looked in the provisions of law under the Act and therefore, the same is liable to be set aside.

6. In the result,

a) this civil revision petition is allowed;

b) learned III Additional Sub Judge (Usilampatti Camp) Madurai is directed to number the petition filed by the petitioner within a period of two weeks from the date of receipt of a copy of this order, if it is otherwise in order.

c) on numbering the petition, the Trial Court shall issue notice to the respondent / wife and pass appropriate orders thereon on merits and in accordance with law, within a period of six months thereafter.

No costs.

Sd/-

Assistant Registrar(CO)



To:

The III Additional Sub Judge (Usilampatti Camp)
Madurai

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+1cc to M/s.D.S.Haroon Rasheed Advocate in SR. No.60655

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JM/JC/SAR-3/18.05.2018/3P/3C

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