



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 16.08.2018
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (MD) No.1437 of 2015

and

M.P. (MD) No.1 of 2015

Suyambulingam

... Petitioner/Petitioner

Vs.

Sathya Bhama

... Respondent/Respondent

Prayer : This revision petition is filed under Article 227 of the Constitution of India, to set aside the order in I.A.No.181 of 2010 in H.M.O.P.No.84 of 2009 dated 30.01.2015 passed by the 1st Additional Subordinate Court, Nagercoil, and quash the same as illegal.

For Petitioner : Mr.S.Malaikani

For Respondent : Mr.E.V.N.Siva

O R D E R

This Civil Revision Petition has been filed against the order dated 30.01.2015 made in I.A.No.181 of 2010 in H.M.O.P.No.84 of 2009 passed by the learned 1st Additional Subordinate Judge, Nagercoil.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3.The petitioner and the respondent are husband and wife, who got married on 05.04.1995. The case of the petitioner is that the respondent was having illicit intimacy with one Padmanabhan when the petitioner got hold of the respondent with her paramour the respondent scolded the petitioner, questioning his potentiality the petitioner and the petitioner went for clinical examination and found that he could not be a father of a child. Hence, the petitioner is having a doubt that the child which was born on 06.06.2006 to the respondent may be the son of the paramour of the respondent. The petitioner filed a petition for D.N.A. test and the same was dismissed by the trial Court. Against that order, the petitioner has filed this Revision Petition.

4.On the side of the respondent, it is stated that the respondent has filed a petition for maintenance in M.C.No.8 of 2008 and after full trial, the learned Chief Judicial Magistrate has ordered for maintenance. In that case, the petitioner has not raised any question regarding the paternity of the Minor Sribalan



and only with the motive to drag on the H.M.O.P., the petitioner has filed this revision petition.

5. On the side of the petitioner, it is argued that the respondent is having illegal intimacy with one Padmanabhan even before the marriage of the petitioner with the respondent. On the side of the respondent, it is stated that in the petition filed by the petitioner, it is stated that Padmanabhan was introduced to the respondent only in the year 2007. But, the child was born on 06.06.2006 there is no doubt regarding the paternity.

6. On the side of the petitioner it is further argued that no prejudice will be caused to the respondent in subjecting the minor boy to undergo the D.N.A. test.

7. Records perused.

8. A perusal of the records, reveals that before the trial Court the petitioner has admitted that he has constructed the house and named the house in the name of his son Sribalan. He further deposed that the trial Court has ordered Rs.1,000/- for **his** son. He has admitted that he has not taken a plea, questioning the paternity of the child in the Maintenance case filed by the respondent. Though the petitioner has claimed that he has taken Laboratory test and found that he could not give birth to a child, that Medical Report was not filed by the petitioner. The petitioner has not taken this plea in the Maintenance Case filed by the respondent and he has not filed any petition for paternity test along with the original H.M.O.P. petition, which is pending from the year 2009. This revision petition was filed only in the year 2010. The Interlocutory Application was ordered in the year 2015. This revision petition will further prolong the case filed in the year 2009. The reasons stated in the revision petition, are not satisfactory. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar (CS-II)

To
The I Additional Subordinate Judge,
Nagercoil.

Ls

MK/RSK/SAR 2/10.09.2018/2P/2C