



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P (MD) (PD) .No178 of 2016

and

C.M.P (MD) .No.814 of 2016

Janani ... Petitioner/Petitioner/2nd Petitioner

vs.

Prabhu ... Respondent/Respondent/1st petitioner

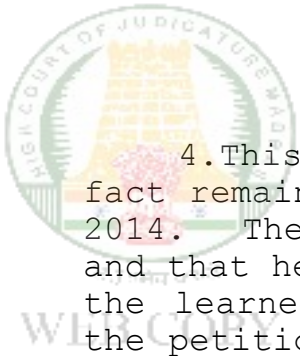
PRAYER: Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 08.01.2016 made in C.R.P.No.(unnumbered) of 2016 in H.M.O.P.No.188 of 2014 on the file of Sub-Court, Uthamapalayam and direct the Court below to number the same and decide the same on merits after giving due opportunities to all parties.

For Petitioner	: Mr.A.Arumugam for M/s.Ajmal Associates.
For Respondent	: Ms.S.Jaina Beevi for M.Vivekanandan.

O R D E R

The revision petitioner and the respondent herein got married on 09.12.2012. It appears that the marital relationship got estranged. The revision petitioner's father had given a petition before the Legal Aid Committee to prevail upon the respondent herein for re-union. The material enclosed in the typed set of papers indicates that HMOP.No.188 of 2014 was filed before the Sub-Court, Uthamapalayam and the aforesaid marriage was dissolved by mutual consent. The petition in HMOP.No.188 of 2014 was filed on 11.12.2014 and a decree of divorce was granted on 17.08.2015. Thereafter, the revision petitioner filed an application under Order 47 Rule 1 CPC for review.

2.The case of the revision petitioner is that she was absolutely unaware of what was written in the HMOP petition and that by playing fraud, a decree of divorce has been obtained. The Court below has not numbered the said I.A. Hence, the civil revision petition came to be filed.



4.This Court does not enter into the merits of the matter. The fact remains that a decree of divorce was granted in HMOP.NO.188 of 2014. The revision petitioner alleges that she has been deceived and that her signatures were obtained by misrepresentation. Infact, the learned counsel for the revision petitioner would submit that the petitioner was not examined by the Court below and only a proof of affidavit was obtained from her.

5.This Court is of the view that when an allegation of fraud is made, it is for the Court below to hold an enquiry. In this view of the matter, the Court below is directed to number the petition filed by the revision petitioner seeking review of the order dated 17.08.2015 in HMOP.No.188 of 2014 on the file of the Sub Court, Uthamapalayam.

6.The Registry is directed to return the original review petition to the petitioner herein for representation before the Sub-Court, Uthamapalayam. The Court below shall number the review petition and issue notice to the respondent. After holding an enquiry, appropriate orders, in accordance with law, shall be passed. It is reiterated that merely because this civil revision petition is allowed, this Court shall not be understood as having given any finding in favour of the revision petitioner.

7.All the issues are left open. The Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

rmk

To

1.The Sub-Court, Uthamapalayam.

+1cc to M/S.Ajmal Associates, Advocate in SR No.80480

+1cc to Mr.M.Vivekanandan, Advocate in SR No.80527

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NM/RP/SAR 4/26.09.2018/2P/4C