

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.02.2019

Coram

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR. JUSTICE C.SARAVANAN

C.M.A.No.1548 of 2019
and
C.M.P.No.4390 of 2019

S.Poornima

.. Appellant

vs.

V.Yuvaraj

.. Respondent

Appeal filed under Section 19 of the Family Courts Act, 1984 against the order made in I.A.No.18 of 2019 in O.P.No.1481 of 2015 on the file of VI Additional Judge, Family Court, Chennai dated 23/01/2019.

For Appellant : Mr.R.Thiagarajan

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The appellant herein is the petitioner in O.P.No.1481 of 2015. This petition has been filed for divorce on the ground of cruelty. When the matter is pending trial, an application was filed by the appellant in I.A.No.18 of 2019 seeking to invoke Order 6 Rule 16 C.P.C. r/w Section 151 C.P.C. to expunge certain statements made in the proof affidavit filed by the respondent. The Court below rejected it and therefore, the present appeal has been filed.

2.Learned counsel appearing for the appellant would submit that there is no specific averment in the counter affidavit filed nor in the reply notice given. Therefore, such a scandalous defamative statement in the nature of mere allegation nor supported by evidence will have to be expunged.

3.We are not inclined to entertain this appeal, when already time has been fixed for the disposal of the main original petition. If the respondent has made certain allegations, it is for him to substantiate it. The trial has begun already. In the reply notice, the respondent has submitted that he does not want to disclose certain things. These are being matters, which are to be decided by the Family Court at the time of disposal of the main original petition. Entertaining this appeal, especially after time has been fixed by the Court on the earlier occasion, would only result in dragging the matter any further, which cannot be in the interest of the appellant. Perhaps, the appellant can also raise this as a ground of cruelty, if the respondent is not able to substantiate the allegations made.

4.In such view of the matter, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The VI Additional Judge,
Family Court, Chennai.

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C.M.A.No.1548 of 2019

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