

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

C.R.P.(PD)Nos.2820 & 2599 of 2019

and

C.M.P.Nos.18503 & 17107 of 2019

A.K.Abinesh

... Petitioner in both CRPs

Vs.

M.Deepa

... Respondent in both CRPs

Prayer: Petitions filed under Article 227 of the Constitution of India to set aside the judgment and decree passed in I.A.Nos.43 & 42 of 2019 respectively in HMOP.No.24 of 2018 dated 01.07.2019 by the learned Sub-ordinate Judge, Omalur.

For Petitioner : Mr.Ganesh and Ganesh

For Respondent : M/s.Zeenath Begum

COMMON ORDER

These civil revision petitions have been filed against the fair and decretal order dated 01.07.2019, passed by the learned Sub-ordinate Judge, Omalur in I.A.Nos.43 and 42 of 2019 respectively in H.M.O.P.No.24 of 2018.

2.The said two petitions had been filed by the husband, who is the petitioner in the H.M.O.P., to reopen and recall the respondent for examination, in view of the contradictory statement said to have been given on the side of the respondent. However, the said petitions had been dismissed, by the impugned order of the learned Judge on the ground that, in order to delay the proceedings, these petitions have been filed. Therefore, the same cannot be accepted and accordingly, it was rejected.

3.I have heard the learned counsel appearing for the petitioner and also the learned counsel for the respondent.

4.Since according to the petitioner, there has been a contradictory statement with regard to the returning of the Sridhana property and that will have bearing in the main issue, therefore, in order to put the facts straight, the revision petitioner wanted to cross examine the respondent. Therefore, the said reopen and recall petitions were necessitated.

5.If these petitions are allowed and the respondent is called for examination, no prejudice would be caused to the respondent as on one day, the respondent can be deposed by way of cross examination and thereafter, the matter can be given a quietus, by finally disposed of the same by the Court below.

6.In that view of the matter, this Court is inclined to dispose of these civil revision petitions with the following directions:

That the impugned orders in I.A.Nos.43 and 42 of 2019 respectively in H.M.O.P.No.24 of 2018, dated 01.07.2019 are hereby set aside and the matter is remitted back to the Court below with a direction that the petitioner in the respective petitions i.e., the husband shall be permitted to reopen and recall the respondent for examination and in that case, a date can be fixed within a period of 30 days from the date of receipt of a copy of this order, within which, on the date so fixed by the lower Court, the respondent shall present and she should be examined on the day itself and thereafter, the matter can be taken up for final disposal, after hearing the arguments of both sides, at any rate one month time frame should be strictly adhered to.

7.With these directions, both the Civil Revision Petitions are ordered accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.09.2019

Sgl

To

The Sub-ordinate Judge,
Omalur.



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R.SURESH KUMAR, J.

Sgl



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