

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.PONGIAPPAN

Civil Revision Petition (PD) No.3494 of 2019

S.Jafer Ali

Petitioner

Vs

S.Jeenath

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to direct the District Judge, Family Court, Udhagamandalam to number O.S.S.R.No.231 of 2019, on the file of Family Court, The Nilgiris, Ootacamund, within a time stipulated by this Court.

For Petitioner : Mr.T.Balaji

ORDER

The Civil Revision Petition has been preferred by the petitioner with a prayer to direct the learned District Judge, Family Court, Udhagamandalam to number O.S.S.R.No.231 of 2019, on the file of Family Court, The Nilgiris, Ootacamund, within a time stipulated by this Court.

2. The petitioner herein is the plaintiff in O.S.S.R.No.231 of 2019, on the file of Family Court, The Nilgiris. He has filed the said suit as

against the respondent herein for the relief of declaration to dissolve the marriage happened between the petitioner and the respondent on 17.02.2000. After the presentation of the plaint, the learned Judge, Family Court, The Nilgiirs, has returned the plaint on 18.07.2019, by mentioning the following reasons:-

1. One more copy of plaint with signature of the plaintiff has to be enclosed
2. The provisions of law under which relief if sought is to be affixed
3. Index of the documents number to be given
4. One of the set of plaints documents to be enclosed

After complying the defects pointed out by the Registry, the petitioner has represented the plaint on 05.08.2019 and the same was again returned on the same day with endorsement "Previous return No.1 & 2 not complied with till date". Again the suit has been represented on 03.09.2019 and the learned Judge by stating the following reasons returned the plaint again on 04.09.2019.

1. Notification of the Dissolution of Muslim Marriage Act 2016 to be produced
2. Notification of the court under the Dissolution of Muslim Marriage Act 2016 also to be produced.

Only in the said circumstances, the petitioner has approached this Court by way of filing this Civil Revision Petition for issuing direction to the Presiding Officer of the Family Court, The Nilgiris to number the suit.

3. On going through the defects pointed out by the Presiding Officer, Family Court, The Nilgiris, it is clear that he has doubted, as to whether the suit filed by the plaintiff/petitioner is maintainable according to the Dissolution of Muslim Marriage Bill 2016 or not. It is the easiest way for the Presiding Officer, Family Court, The Nilgiris to hear the arguments of the petitioner in the open Court and pass orders. Without calling the plaint in the open Court for checking the maintainability, mere return of plaint for many times is unwarranted one. Hence, I am of the opinion that it is appropriate to issue some direction to the Presiding Officer, Family Court, The Nilgiris to redress the grievance of the petitioner.

4. The Presiding Officer, Family Court, the Nilgiris is directed to call the matter (OS.SR.No.231 of 2019) in open Court. Further, the learned Presiding Officer is directed to pass orders on merits after considering the Bill (Dissolution of Muslim Marriage Bill 2016) dated 05.08.2016 and also after hearing the arguments advanced on the side of the petitioner.

5. With the above directions, the Civil Revision Petition is disposed of. No costs.

25.10.2019

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Issue Order copy on 30.10.2019.

Note: The Registry is directed to return the original plaint filed by the petitioner.

R.PONGIAPPAN, J.,

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To

The Family Court, Udhagamandalam



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