

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No. 2628 of 2018

&

C.M.P. No. 19889 of 2018

S. Shalini

...Appellant

Vs.

R. Suresh

...Respondent

Prayer: Civil Miscellaneous Appeal as against the order and decretal order in I.A. No. 1256/2018 in O.P. No. 367 of 2016 on the file of IV Additional Family Court, Chennai dated 03.09.2018.

For Appellant :: Ms.M. Sophia

For Respondent :: Mr.M. Vijayakumar

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN,J.)

The appeal has been filed by the appellant against the dismissal of the application in I.A. No. 1256 of 2018 filed by her for grant of maintenance. According to the appellant, she got married to the respondent on 08.06.2014 at Thiruvannamalai as per Hindu rights and customs, after getting divorce from the earlier marriage, which was dissolved by order dated 27.04.2014. After the marriage, alleging that the respondent harassed her in many ways, a divorce petition was filed by the appellant on the ground of cruelty before the Family court, Chennai. In the said O.P., maintenance application had been taken out and the said application came to be dismissed by the Family Court, Chennai, by the impugned order, holding that since there is a dispute with regard to the factum of marriage and besides, the appellant being a qualified Dentist could secure a job or establish a private clinic, she is not entitled to any interim maintenance. Against the said order dismissing the maintenance application, the present appeal has been preferred.

2. Heard the learned counsel for the appellant, who argued the matter contrary to the records, in spite of this Court pointing out the admission made by the appellant in the Transfer C.M.P. (MD) No. 208 of 2016 wherein she had admitted that she got married to the respondent herein on 24.01.2007, and submitted that by false information, the date of solemnisation of marriage between the appellant and the respondent was registered as 24.01.2007. However, a perusal of the Marriage Registration Certificate, issued by the Personal Assistant (General) to the Registrar General of Births, Deaths and Marriages would reveal that the marriage had taken place on 24.01.2007 between the appellant and the respondent. When the marriage between the appellant and the respondent was in existence, it is evident from the order dated 29.03.2014 passed by the Family Court at Ernakulam that the appellant had married one Umesh, that the said marriage was solemnized on 05.02.2010 and it was dissolved subsequently by the order passed by the Family Court, Ernakulam.

3. By her own admission and also by order dated 29.03.2014 produced by the learned counsel for the appellant, it is clear that the appellant got married to the respondent on 24.01.2007 and the said marriage till date is intact. When things stand so, subsequently, she got married to one Umesh on 05.02.2010 and it was dissolved only on 29.03.2014. Hence, it is proved beyond doubt that the appellant contracted second marriage when the first marriage between the appellant and the respondent was in existence.

Therefore, the Trial Court rightly dismissed the maintenance application. That apart, the Trial Court also held that the appellant is a dentist and she can practice and earn. Therefore, the appeal fails and the same is dismissed. No costs. Connected C.M.P. is closed.

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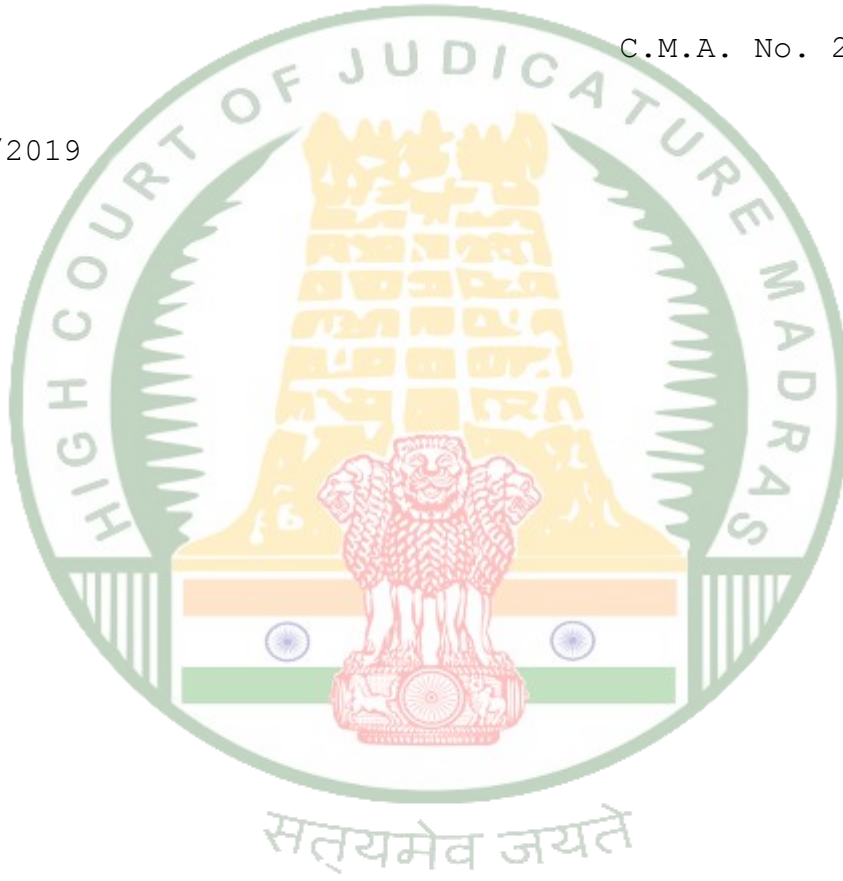
To

The IV Additional Principal Judge,
The IV Additional Family Court,
Chennai.

+2cc to Mr.R.Sathyabama, Advocate Sr.62588

C.M.A. No. 2628 of 2018

srg 16/08/2019



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