

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2019

Coram:

The Honourable Ms.Justice P.T.ASHA

Crp.No. 4268 of 2018
and
CMP.No.23398 of 2018

Sabarish

...Petitioner/Defendant

Versus

Kalpana

...Respondent/Plaintiff

This Civil Revision Petition is filed under Section 227 of the Civil Procedure Code praying to set aside the order and decree passed in I.A.No.5005 of 2018 in O.S.No.273 of 2014 dated 22.10.2018 by the Hon'ble III Additional Family Court, Chennai.

For Petitioner : Mr.R.S.Kirubakaran

For Respondent : Mr.Pasupathi

ORDER

The above Civil Revision Petition is filed challenging the order passed by the learned III Additional Judge, Family Court at Chennai, in refusing to issue summons to the Professor of Forensic Medicine, State Police Surgeon Tamil Nadu, Institute of Forensic Medicine, Madras Medical College, Chennai - 03, to appear and tender oral evidence on the Medical Report bearing SOC No. 11/2017 dated 17.04.2017.

2.The brief facts which are necessary for disposing of the Civil Revision Petition are as follows:

The Respondent wife has filed a Suit in O.S.No. 273 of 2014, on the file of the learned III Additional Family Judge, Chennai to declare the marriage between the revision petitioner and the respondent as null and void. In that suit, an application has been filed by the revision petitioner / husband for examining himself. The expert has also submitted a medical report in I.A.No.358 of 2015 in O.S.No. 273 of 2014. The wife alleged that the medical report is in favour of the revision petitioner

husband and therefore, the I.A.No.5005 of 2018 has been taken out by the husband for examining the Professor of Forensic Medicine, Madras Medical College to appear and tender oral evidence on the medical report bearing SOC No.11 of 2017 dated 17.04.2017. The same has been dismissed by the Court below on the ground that the report has not been challenged by the respondent and therefore, there is no necessity to let in oral evidence by examining the expert.

3. Heard Mr.R.S.Kirubakaran, learned counsel appearing for the revision petitioner.

(i) In my opinion, the main fulcrum of the entire case in the present revision is whether the marriage between the petitioner and the respondent has been or not been consummated and therefore, to declare the marriage is null and void. Considering the facts that the report is in favour of the revision petitioner, there is no necessity to further examine the expert by questioning him in the witness box, as the wife / the respondent has also accepted the report.

(ii) Under these circumstances, I do not find any infirmity the order of the Civil Revision petition is Dismissed. However, there shall be no order as to costs. Consequently, connected Civil Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The III Additional Judge,
The III Additional Family Court,
Chennai.

C.R.P.No.4268 of 2018
and
C.M.P.No.23398 of 2018

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