



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:11.06.2019

DELIVERED ON : 30.07.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.784 of 2019

and

CMP (MD) .No.4833 of 2019

B.Kodi : Petitioner/Respondent/Petitioner

Vs

Malarvizhi : Respondent/Petitioner/Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.04.2019 in I.A.No.285 of 2019 in H.M.O.P.No.374 of 2015, on the file of Family Court, Madurai.

For Petitioner : Mr.R.Devaraj

For Respondent : Mr.V.Sakthivel

ORDER

Challenging the fair and decreetal order dated 26.04.2019 in I.A.No.285 of 2019 in H.M.O.P.No.374 of 2015, on the file of Family Court, Madurai, the petitioner has come up with the present Civil Revision Petition.

2. The facts of the case are that the petitioner herein is the wife of the respondent herein. The husband filed H.M.O.P.No.374 of 2005 for divorce and for other reliefs before the Court below. Pending that petition, the wife moved I.A.No.285 of 2019 under Order VII Rule 1(A) and Section 151 of CPC to receive the documents mentioned in the petition. The said application was allowed by the Court below vide its order dated 26.04.2019. Aggrieved over the same, the petitioner is before this Court for the relief stated earlier.

<https://hcservices.ecourts.gov.in/hcservices/> 3. The learned counsel for the petitioner contends that while marking the documents of the respondent the Court below has failed to follow the mandatory requirements envisaged in the Indian



Evidence Act 65(B) and due to which, the petitioner's right is in peril. Hence, he prays for setting aside the order challenged in the Civil Revision Petition.

4. The learned counsel for the respondent contends that the lower Court after considering various factors and following the Indian Evidence Act has ultimately allowed the application filed by the respondent. The marking of documents would in any way affect the right of the petitioner, whereas, the petitioner can always adjudicate and refute the alleged documents during the course of the trial. Hence, he prays for the dismissal of this Civil Revision Petition.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

6. The only point urged in this Civil Revision Petition the respondent herein wanted to mark four documents. Out of which, the documents 1 and 2 are certified copies of H.M.O.P.No.185 of 2005 filed by the respondent before II Additional Subordinate Judge, Tirumangalam and document Nos.3 is the alleged invitation and document No.4 is the two sets of photographs and two C.Ds. As far as the document Nos.1 and 2 are concerned, the petitioner may not have any grievance as it is obtained only on 25.01.2019. But the statement of objection in the main HMOP has been filed by this petitioner on 15.11.2007. Hence, it reveals that the certified copies has been obtained only after the statement of objection in the main HMOP has been filed by this petitioner. Hence, the contention that those documents are inadmissible in evidence is not acceptable one. Similarly, the allegation of the petitioner that the invitation, photographs and CD's are all created one and it is not complied with Section 65B of Indian Evidence Act also cannot be accepted for the simple reason that it can only be considered during the course of trial and at this juncture, the Court below cannot be expected to reject it at the threshold without receiving the document itself. Above all, the Court below has only received the document and it has not been marked at all. At the time of marking the document or during the course of evidence, the petitioner can always object the documents to be marked by the respondent. Needless to mention in case at each and every stage while receiving the documents are objected by the parties concerned, then, it will be a herculean task for the Court to complete the trial and render justice to the aggrieved parties. This court is of the considered view the correctness of the document can always be considered during the course of the trial and petitioner is not remediless. Therefore, I find no reason to interfere with the order of the Court below and the order passed by the Court below is sustainable in the eye of law. To sum up, this Civil Revision Petition is liable to be dismissed.



7. In the light of the above, this Civil Revision Petition stands dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

Sub Assistant Registrar(CS)

Bala

TO
THE FAMILY JUDGE, MADURAI.

+1CC TO MR.V.SAKTHIVEL, Advocate Sr. No.78639

+1CC TO MR.R.DEVARAJ, Advocate Sr. No.78614

order made in
C.R.P. (PD) (MD) No.784 of 2019
30.07.2019

SCR(CO)
TR (07.08.2019) 3P 4C