



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.02.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (PD) (MD) No.2572 of 2018

and

C.M.P. (MD) Nos.11320 of 2018 & 1372 of 2019

Rahamathuisha

... petitioner/Petitioner/Plaintiff

vs.

Syed Ibrahim

... Respondent/Respondent/Defendant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 06.10.2018 passed in I.A.No.807 of 2018 in O.S.No.1612 of 2012 on the file of the learned III Additional District Munsif Court, Tiruchirappalli.

For petitioner : Mr.N.R.Murugesan

For Respondent : Mr.R. Sundar

O R D E R

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 06.10.2018 passed in I.A.No.807 of 2018 in O.S.No.1612 of 2012 on the file of the learned III Additional District Munsif Court, Tiruchirappalli.

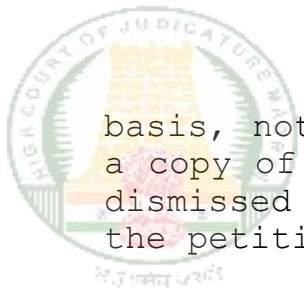
2.The brief facts of O.S.No.1612 of 2012 is that the petitioner and the respondent is the husband and wife. Through their wedlock, a son and a daughter were born.From the date of marriage upto 2004, the respondent was jointly running their life along with her and her children. The respondent gone for sacrament to Hajj in the year 2004. After returning from Hajj, the respondent is having illicit relation with one concubine Rahila. Under this circumstance, the respondent has unlawfully executed a settlement deed in favour of Concubine Rahila on 15.03.2011. This was brought to the knowledge of the revision petitioner only on 25.08.2012. Due to the illegal act by registering the property in the name of the concubine Rahila by the respondent, this revision petitioner has filed the suit in O.S.No.1612 of 2012 before the learned III Additional District Munsif Court, Trichy for cancellation of illegal settlement deed dated 15.03.2011 made by the respondent in the name of concubine Rahila and for other reliefs. After entered appearance in the above case, the respondent and the said Rahila filed another suit in O.S.No.528 of 2013 against this revision petitioner and her children for permanent injunction in favour of them before the same Court.



3. Pending suit, I.A.No.807 of 2018 was filed by the petitioner herein. In the said I.A., the learned counsel for the petitioner stated that the petitioner has filed an I.A.No.550 of 2013 before the District Munsif Court, Trichy to restrain the respondent his men and agent from alienating the suit property by affecting her legal rights and the said petition was dismissed without prejudice by both parties. Against which, the petitioner filed C.M.A.No.17 of 2018 and it is pending before the II Additional Subordinate Judge, Trichy and the respondent has also entered appearance. Subsequent to that, the petitioner filed another petition under I.A.No.1125 of 2012 by claiming Rs.10,000/- per month as interim maintenance. The said I.A., was also dismissed. Against which, the petitioner filed C.M.A.No.18 of 2018 before the II Additional Subordinate Court, Trichy and it is also pending for adjudication. The respondent has also entered appearance. After that, the respondent filed I.A.No.592 of 2017 for filing additional written statement and he is also filing by way of counter claim petition to deposit one year amount at the rate of Rs.3,000/- per month and the said petition was allowed. The grievance of the petitioner is that in all the three I.As., there was no speaking order, no explanation and what circumstances, the Court came to the conclusion by allowing the respondent's I.A., and by dismissing the petitioner's two I.A., The learned counsel for the petitioner contended that the respondent filed a civil revision petition before this Court under C.R.P(PD) (MD).No.1564 of 2018 to dispose the suit in O.S.No.1612 of 2012 as early as possible and hence, the petitioner sought before this Court to stay all further proceedings in O.S.No.1612 of 2012 until the disposal of all the C.M.As 17 of 2018, 18 of 2018 and 19 of 2018 which are pending before the learned II Additional Subordinate Court, Trichy to dispose the case on merit by allowing the petition accordingly.

4. In the said I.A.No.807 of 2018, the learned counsel for the respondent filed a counter by stating that under Mohamendan Law the marriage between the respondent and the Rahila Bi is valid under law. The marriage was performed on 31.03.1985 and it cannot be stated by the petitioner that the said Rahila is a concubine when there is a valid marriage. The property mentioned is the property of the respondent and he is entitled to deal with the same. The petitioner is not entitled to challenge or question. Hence, he sought before the Court to dismiss the said I.A.,

5. In I.A.No.807 of 2018, the trial Court has observed that there is no stay in C.M.As., filed by the petitioner herein before the learned II Additional Subordinate Judge, Trichy under C.M.A.Nos.17, 18 and 19 of 2018. It is also observed that the revision petitioner filed the I.A.No.807 of 2018 to stay all further proceedings in O.S.No.1612 of 2012, whereas, this Court in C.R.P(PD) (MD).No.1564 of 2018 which was filed by the respondent herein, had already directed the trial Court to dispose the suit in O.S.No.1612 of 2012 as expeditiously as possible, on day-to-day



basis, not later than three months from the date of the receipt of a copy of the order. The trial Court observed all these things and dismissed the I.A.No.807 of 2018. Aggrieved against the said order, the petitioner preferred this Civil Revision Petition.

6.Heard the learned counsel on either side.

7.On perusal of records, it is observed that the petitioner filed the petition in I.A.No.807 of 2018 before the Court below to stay all further proceedings in O.S.No.1612 of 2012, whereas this Court in C.R.P(MD).No.1612 of 2012 had already directed the Court below to dispose of the aforesaid suit, on day-to-day basis, within a period of three months from the date of receipt of a copy of that order. Hence, the petitioner cannot seek a direction to stay the proceedings in O.S.No.1612 of 2012 which is highly improper. The Court below has rightly dismissed the I.A.No.807 of 2018. However, the petitioner has filed the amendment petition in C.M.P.No.1372 of 2019 seeking direction for joint trial in O.S.No.528 of 2013 along with the suit in O.S.No.1612 of 2012. Considering the facts and circumstances of the case, this Court is not inclined to entertain the amendment petition. It is for the petitioner to file a separate petition seeking for joint trial. Therefore, there is no infirmity or illegality in the order passed by the trial Court in I.A.No.807 of 2018. Accordingly, this Civil Revision Petition is dismissed. No Costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar(CS)

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To:

- 1.The III Additional District Munsif,
Tiruchirappalli.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai. (2 COPIES)

+1CC TO MR.R.SUNDAR, Advocate Sr. No. 46112

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