



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P (MD)No.1305 of 2019

V. Nagarajan

... Petitioner/Petitioner

Vs.

1.Geetha

2.Saravanan

... Respondents/Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the return order dated 22.07.2019 passed by the Sub Court, Thuraiyur in unnumbered HMOP.SR.No. 3496 of 2019 and to direct the Sub-Court, Thuraiyur to number the said HMOP.

For Petitioner : Mr.R. Gowrishankar

For Respondent : Mr. N.Sudhagar Nagaraj

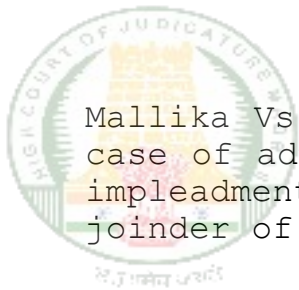
ORDER

This Civil Revision Petition has been filed to set aside the return order, dated 22.07.2019 passed by the Sub-Court, Thuraiyur in unnumbered HMOP.SR.No. 3496 of 2019 and to direct the Sub-Court, Thuraiyur to number the said HMOP.

2. The contention of the revision petitioner is that HMOP has been filed for the purpose of divorce on the ground of adultery. According to the revision petitioner, the second respondent has committed adultery with the first respondent and therefore, the second respondent is necessary party. In this regard, the learned counsel on record relied on the Judgment of this Court reported in 2005(2) CTC 28 (M. Mallika Vs. M. Raju and another).

3. Further, the learned counsel appearing for the respondent after reading the Judgment referred by the counsel for the revision Petitioner contended that the case of adulterer is a necessary party.

4. Admittedly, the present HMOP has been filed for the purpose divorce on the ground of adultery by relying upon the Judgment of this Court reported in 2005(2) CTC 28 (M.



Mallika Vs. M. Raju and another), wherein, it has been held that in case of adultery, adulterer is a necessary party. Further, the non impleadment of adulterer, the HMOP hit by the principle of non-joinder of parties.

5. The pleadings of the counsel would show that for the purpose of divorce on the ground of adultery, the petitioner should have to prove about the commission of adultery by the second respondent. In such of the case, the adulterer is necessary party to be impleaded in the present HMOP.

6. Accordingly, this Court, held that the impleadment of the adulterer is necessary and rightly the revision petitioner filed HMOP by impleading the adulterer and hence, the rejection of HMOP by the Registry of the Court below is not correct and therefore, this Court directs the Registry to number the HMOP and take the same on record.

7. With the above observations and directions, this Civil Revision Petition is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

trp

To

The Subordinate Judge, Thuraiyur.

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-87135[F] dated 17/09/2019)

+1 CC to M/s.R.GOWRISHANKAR, Advocate (SR-87362[F] dated 18/09/2019

C.R.P (MD)No.1305 of 2019
17.09.2019

JMN(04.10.2019) 2P : 4C