



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

C.R.P(MD)No.2012 of 2019 and CMP(MD).No. 10365 of 2019

WEB COPY

Pandiyarajan ... Petitioner / Respondent

Vs.

Shahana ... Respondent / petitioner

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the order dated 26.07.2019 passed in I.A.No. 322 of 2019 in HMOP.No. 222 of 2018 on the file of the Family Court, Dindigul.

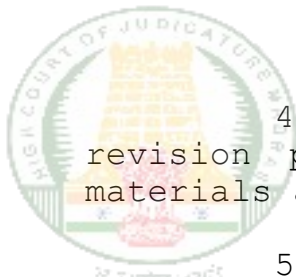
For Petitioner : Mr. A.R. Kannappan
For Caveator : Mr.S. Raja

ORDER

This Civil Revision Petition has been filed challenging the order dated 26.07.2019 passed in I.A.No. 322 of 2019 in HMOP.No. 222 of 2018 by the learned Judge, Family Court, Dindigul, permitting the respondent herein to recall and mark the CD through PW.1.

2. According to the revision petitioner, the Court below has allowed an application in I.A.No. 322 of 2019 to recall, reopen and to mark the CD through PW.1. According to him, the CD can be marked only under Section 65(B) of the Evidence Act, 1872. By referring to Section 65(B) of the Evidence Act, he would contend that the CD can be marked after due certification in accordance with Section 65(B) of the Evidence Act. But, in this case without considering the said aspects, the Court below has allowed the application filed by the petitioner. Hence, the same is liable to be set aside.

3. The learned counsel appearing for the respondent would contend that in terms of Section 65(B) of the Evidence Act, he will produce and mark the CD before the Court below. If there is any objection on the part of the revision petitioner, he can make his objection at the time of cross examination of PW.1 and the same can be decided by the Court below. Further, he contended that the Court below has allowed the application filed by the respondent on condition that the petitioner is at liberty to raise his objection when the Court receive the CD as evidence. Hence, there is no infirmity in the order passed by the Court below and hence, the Civil Revision Petition is liable to be dismissed.



4. I have heard the learned counsel appearing for the revision petitioner as well as the respondent and perused the materials available on record.

5. The above application has been filed by the respondent to mark the CD, wherein it contains the conversation between the husband and wife. The CD going to be produced in HMOP.No. 222 of 18 i.e., in matrimonial dispute. The Court below allowed the above application after hearing both parties and thereby, permitted the respondent to mark the CD through PW.1. While allowing the application to mark the CD the Court below, in order to protect the interest of the respondent has given liberty to the petitioner to raise his objection when the Court receiving the CD as evidence. Hence, this court finds no infirmity in the order passed by the Court below. Further, the learned counsel appearing for the respondent clearly states that the CD will be marked as per Section 65(B) of the Evidence Act. Therefore, this Court is not inclined to interfere with the order passed by the Court below. Accordingly, this Civil Revision Petition is dismissed.

6. While dismissing the Civil Revision Petition, as held by the Court below, this Court permits the revision petitioner to raise all his objections while marking CD by the respondent, at the time of cross examination and the said objections shall be considered by the Court below at the time of final hearing of the main HMOP.

7. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

trp

To
The Family Court, Dindigul.

+1 CC to M/s.S.RAJA, Advocate (SR-100474[F] dated 22/11/2019)

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CMP(MD).No. 10365 of 2019
20.11.2019

SMA/30/01/2020/2P/3C