



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2019

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE **KRISHNAN RAMASAMY**

C.R.P. (MD)No.1886 of 2019

and

C.M.P. (MD)No.9640 of 2019

1. Leela
2. Ramesh Babu
3. Punitha
4. Nirmal ... Petitioners/Petitioners/Petitioners/Plaintiffs

Vs.

Rajakumari ... Respondent/Respondent/Respondent/Defendant

Prayer : The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the Fair and Decreetal order passed in E.A.No.05 of 2019 in E.P. No.13 of 2019 in O.S. No.541 of 1998 on the file of the District Munsif Court, Srivaigundam, Thoothukudi District, dated 26.08.2019.

For Petitioners : Mr.A.D.Ganeshamoorthy

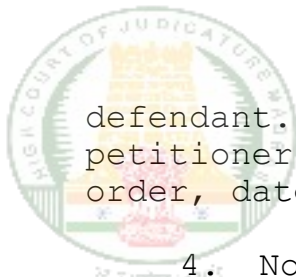
For Respondent : Mr.R.Suresh Kumar

O R D E R

This Civil Revision Petition has been filed challenging the order passed in E.A.No.05 of 2019 in E.P. No.13 of 2019 in O.S. No.541 of 1998 on the file of the District Munsif Court, Srivaigundam, Thoothukudi District, dated 26.08.2019.

2. The said application in E.A.No.05 of 2019 has been filed against the respondent herein, directing them to produce the respondent's bank pass book, voter identity card, aadhar card, ration card, passport and pan card.

3. The main E.P.No.13 of 2019 has been filed for the relief that the respondent herein / second defendant therein needs to be arrested and detained in civil prison on account of disobedience of the decree of the Court claiming as the wife of the first defendant. The revision petitioners herein filed a suit for declaration and permanent injunction, restraining the respondent herein/second defendant therein, not to harass the family members of the first



defendant. The first defendant, in the suit, is the father of the petitioners 2 to 4 herein. The suit was decreed as prayed for vide order, dated 11.01.2001.

4. Now, according to the revision petitioners, they filed E.P.No.13 of 2019, since the respondent herein has dis-obeyed the order passed in O.S.No.541 of 1998 and claiming the benefit by mentioning that wife of the first defendant in the suit in the ration card, aadhar card, bank pass book, passport and pan card etc.. Therefore, they filed the E.P. to arrest the respondent herein for violating the order of the Court below.

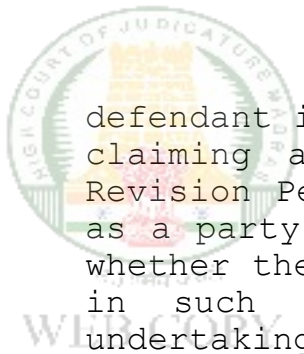
5. When the E.P. is pending, the revision petitioners have filed the above E.A, for appropriate direction to produce the respondent's bank pass book, voter identity card, aadhar card, ration card, passport and pan card etc. However, the Court below after hearing both the parties dismissed the application. Aggrieved by the said order, the revision petitioners have filed this Civil Revision Petition.

6. It is contended by the respondent herein is not at all the wife of the father of the revision petitioners 2 to 4 herein. But, the Court below, without appreciating all the facts, dismissed the E.A., hence, he prayed for allowing the Civil Revision Petition and set aside the E.A. order.

7. On the other hand, the learned counsel for the respondent submitted that the respondent is a cancer patient and she is admitted in the hospital at Adaiyar Cancer Institute and in this circumstances, the revision petitioners in order to harass the respondent filed number of applications. However, the respondent fairly submitted that she has no intention to violate the order of the Court below and to claim any benefit by using the name of the father of the revision petitioners 2 to 4 and in this regard, the respondent has also filed counter, wherein at paragraph No.4, it has been stated as follows:

"I submit that till date I am not claiming any benefits of the Ex-Serviceman Ananthappan @ Anandan and I undertake that I will not claim any benefits from him by using any documents and I have not made any attempt to get claim from the above said person as his spouse"

8. This Court is of the view that the above undertaking would sufficiently satisfy the claim of the revision petitioners as the respondent undertakes not to claim any benefit by any documents in future, she has not made any attempt to claim from the first defendant as her spouse, the interest of the revision petitioners will be protected. That apart, this Court is really surprised why the legal representatives, viz., petitioners 2 to 4 and the wife of the first defendant, filed the present application, when the first



defendant is very much alive, to restrain the respondent herein from claiming any benefit. It is not known, in the present Civil Revision Petition, why the husband/first defendant is not impleaded as a party to the proceedings. When that being so, it is not known whether the first defendant is living with the respondent or not and in such a situation, since the respondent herein filed an undertaking that she is not claiming any benefit of the first defendant/ Ananthappan @ Anandan at paragraph No.4 of the counter affidavit, as stated above, this Court is inclined to dispose of the Civil Revision Petition, as there is no further order is required, since this Court records undertaking of the respondent as stated in paragraph No.4 of her counter affidavit. Accordingly, this Civil Revision Petition is disposed of.

9. In view of the above undertaking made by the respondent, this Civil Revision Petition is disposed of and the order passed in E.A.No.05 of 2019 in E.P.No.13 of 2019 in O.S.No.541 of 1998 is hereby set aside. Consequently, connected miscellaneous petition is closed. In view of the above order, nothing survives in E.P. No.13 of 2019, therefore, this Court directs the revision petitioners as well as the respondent herein to file appropriate / suitable memo before the lower Court with this order to close the E.P. No.13 of 2019 as well as all the connected E.A.'s pending before the Court below. No costs.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

Ls

To
The District Munsif, Srivaigundam,
Thoothukudi District.

Copy to:

The Section Officer, (2 Copies
VR Section, Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.A.D. GANESHA MOORTHY, Advocate (SR-97442[F] dated 12/11/2019)

+1 CC to M/s.R. SURESH KUMAR, Advocate (SR-97504[F] dated 12/11/2019

C.R.P. (MD)No.1886 of 2019

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JMN(15.11.2019) 3P : 6C

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