



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2019

CORAM:

THE HONOURABLE **MRS.JUSTICE R.THARANI**

C.R.P(MD)No.2612 of 2018 (PD)

and

C.M.P.(MD)No.11453 of 2018

J.Gabrilla

... Petitioner/Respondent/Respondent

Vs.

Amaladoss

... Respondent/Petitioner/Petitioner

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decretal order dated 08.10.2018 passed in I.A.No.386 of 2018 in I.D.O.P.No.1 of 2015 on the file of the Family Court, Madurai.

For Petitioner : Mr.L.Prabhu

For Respondent : Mr.V.Sasikumar

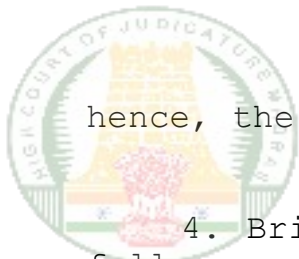
ORDER

The Civil Revision Petition is filed against the order, dated 08.10.2018 passed in I.A.No.386 of 2018 in I.D.O.P.No.1 of 2015 on the file of the Family Court, Madurai.

2. The revision petitioner herein is the wife and the respondent herein is the husband. The respondent filed a petition in I.D.O.P.No.1 of 2015 seeking for a prayer of divorce before the Family Court, Madurai. In that petition I.A.No.386 of 2018 was filed by the respondent husband, to conduct medical examination by the psychiatrist to verify the mental capacity of the revision petitioner wife to lead a marital life and that petition was allowed by the Family court, Madurai. Against which, the petitioner filed this Civil Revision Petition.

3. Brief substance of the petition in I.A.No.386 of 2018 is as follows:-

3.1. The respondent husband seeks for divorce claiming that the petitioner is not physically and mentally fit for marital life and he filed a petition in I.A.No.63 of 2016 for medical examination of the petitioner/wife, the Family court has ordered for medial examination and the Doctor, who conducted the medical examination is not qualified to verify the mental fitness of the petitioner and



hence, the petitioner is to be examined by a psychiatrist.

4. Brief substance of the counter in I.A.No.386 of 2018 is as follows:

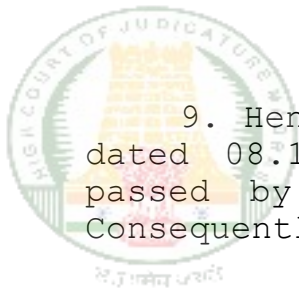
4.1. The main divorce petition is not based on the physical and mental capacity of the respondent / wife and there is no such allegation in the notice sent by the petitioner husband to the respondent / wife, even at the time of cross examination no suggestion regarding the mental capacity of the respondent / wife was raised. The Doctor has examined the respondent and gave a fitness certificate stating that the respondent/ wife is physically and mentally fit for marital relationship and only with a motive to harass the respondent, the petitioner/ husband has come forward with this petition.

5. After considering both sides, the Family Court, Madurai allowed the petition. Against which the revision petitioner preferred this Civil Revision Petition.

6. On the side of the revision petitioner, it is stated that the Doctor, who examined the petitioner has certified that the petitioner is physically and mentally fit for co-habitation. The respondent in his evidence has deposed that even if there is no health issues, he is not ready to live with the petitioner and only with the motive, to get a decree of divorce, the respondent is harassing the petitioner. The respondent and the petitioner lived together only for a period of three months. To get a divorce decree, the respondent tortured the petitioner in the guise of seeking a medical test to prove the mental capacity of the petitioner which is not necessary and the order of the Family Court is to be set aside.

7. On the side of the respondent, it is stated that the Doctor, who gave certificate, is not a psychiatrist and the lady Doctor has deposed that she is not qualified to give any certificate regarding the mental capacity of the petitioner and only a psychiatrist can verify the mental capacity.

8. There is no allegation of mental illness in the petition for divorce. When mental illness has not been taken as a ground for divorce, the prayer sought for by the respondent/husband is not maintainable. In the above circumstances, there is no necessity to send the petitioner for examination by the psychiatrist, to verify the mental fitness of the respondent.



9. Hence, this Civil Revision Petition is allowed and the order dated 08.10.2018 in I.A.No.386 of 2018 in I.D.O.P.No.1 of 2015 passed by the Family Court, Madurai is set aside. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Is

To

The Judge, Family Court, Madurai.

+1 CC to M/s.L.PRABHU, Advocate (SR-106213[F] dated 20/12/2019)

C.R.P (MD) No.2612 of 2018 (PD)
20.12.2019

JMN(17.02.2020) 3P : 3C