

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Civil Revision Petition (PD) No.4640 of 2017
and M.P.No.1 of 2017

Easwari Prasath

..Petitioner

Vs

G.Suguna Yogalakshmi

.....respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order of the learned Subordinate Judge, Poonamallee dated 05.06.2017 passed in I.A.No.43 of 2017 in HMOP No.83 of 2013 in so far as the learned Judge rejected receipt of document nos.1, 2 and 10 in evidence and to allow I.A.No.43 of 2017 in entirety.

For Petitioner : Ms.Y.Kavitha

For Respondents : No Appearance

ORDER

The petitioner filed a divorce petition against the respondent in HMOP No.83 of 2013. At the time of filing of the petition, the petitioner filed 13 documents along with the petition. Later on, the petitioner filed an Interlocutory Application in IA.No.43 of 2017, under Order 7 Rule 14(3) of CPC to receive some additional documents. While dealing with the

application to receive 16 documents as additional documents, the learned Subordinate Judge, Poonamallee after hearing both sides, except documents in serial nos.1, 2 & 10, permitted to receive 13 documents. Only 3 documents were rejected for the reason that they are not the material documents to support and prove the petitioner's case.

2. Heard, Ms.Y.Kavitha, learned counsel for the petitioner. No representation on behalf of the respondent. The learned counsel for the petitioner would submit that the document nos.1, 2 & 10, on the face of it, is very much important to prove the same and also due to non furnishing of certificate under Section 65B of the Indian Evidence Act, it is only a curable defect and at any time, he can file the certificate under Section 65B. Therefore, the learned counsel prays to set aside the order passed by the learned Subordinate Judge, Poonamallee.

3. I have perused the entire records. Admittedly, the petitioner has filed the petition for divorce against the respondent in HMOP No.83 of 2013. During filing of the petition, he filed 13 documents and before commencement of the enquiry, the petitioner filed an Interlocutory Application in I.A.No.43 of 2017, to receive the 16 documents as additional

documents. The learned Subordinate Judge, Poonamallee has partly allowed the petition, except serial nos.1, 2 & 10, other documents were received.

4. On a perusal of the entire records, it is seen that item nos.1, 2 & 10 were very much available even at the time of filing of the petition for divorce itself. The petitioner has not stated that the respondent has filed 13 documents already. But, the respondent has not assigned any reason as to why she has not filed the said documents along with the main petition when the said documents were very much available at the time of filing the main petition. Further, the petition in HMOP No.83 of 2013 was filed in the year 2013, whereas, the petition to receive the additional documents was filed only in the year 2017, i.e. after 4 years that too even without filing the certificate under Section 65 B of the Indian Evidence Act. Therefore, the learned Subordinate Judge, Poonamallee dismissed that application on the ground that the said documents would not support and prove the case of the petitioner and that the petition to receive the documents has to be filed under Section 65B. It is not open for the petitioner to file the documents after four years of filing of this petition and they were filed without certificate as required under Section 65B of the Indian Evidence Act.

P.VELMURUGAN,J.

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5. Therefore, this Court does not find any perversity in the order passed by the trial Court in order to interfere with the same.. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.07.2020

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To

1. The learned Subordinate Judge, Poonamallee
2. The Section Officer, V.R. Section, High Court, Madras

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Civil Revision Petition (NPD) No.4640 of
2017

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