

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. (PD) 3794 of 2018

Susairaj @ Souceradjou Nithia
Nehrou Dominique

... Petitioner

Versus

1. S. Elizabeth @ Devi
2. S.Subramani
3. S.Janaki
4. R.Sulochana

... Respondents

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the order and decretal order dated 08.10.2018 passed in I.A. 845 of 2017 in M.O.P. 59 of 2015 on the file of the learned Family Court Judge, (District Judge), Puducherry.

For Petitioner : Mr.V.V.Sairam

For Respondents : Mr.R.Ganesan for R1

ORDER

This Civil Revision Petition has been filed against the order

partly rejecting the petitioner prayer to conduct DNA test in respect of respondents 2 and 3 herein, and the minor child by name Bharathi.

2. The petitioner is a husband, who has filed a petition for divorce against the 1st respondent to declare the marriage as null and void, on the ground that, the 1st respondent wife living in adultery and the child viz., Chandra Arul Nishanthini was not born to the petitioner. That apart, the 1st respondent is having illegal intimacy with the 2nd respondent, and she has got another child viz., Bharathi. To prove the same, pending O.P., the petitioner has filed an application seeking to conduct DNA test on the petitioner as well as 1st respondent, and also to conduct DNA test for respondents 2 and 3, and minor child viz., Bharathi. The Trial Court has allowed the application partly permitting to conduct DNA test in respect of petitioner as well as 1st respondent. However, the Trial Court rejected the petitioner's prayer for conducting DNA test in respect of respondents 2 and 3. Challenging the disallowed part of the prayer, the present Civil Revision Petition has been filed by the petitioner.

3. I have considered the submissions made by learned counsel appearing for petitioner as well as learned counsel appearing for 1st respondent and perused the records carefully.

4. The claim of the petitioner is that, the 1st respondent wife living in adultery, and the child by name Chandra Arul Nishanthini was not born to the petitioner. That apart, the petitioner has also claimed that, before marriage, the 1st respondent had illegal intimacy with the 2nd respondent, and through him, another child viz., Bharathi was born to 1st respondent. To prove the same, the petitioner wants to conduct DNA test for 2nd and 3rd respondents, and also the minor child by name Bharathi. The Trial Court has allowed the application in respect of the prayer for conducting DNA test on the petitioner and the 1st respondent, and rejected the part of the prayer on the ground that, the petitioner cannot seek to conduct DNA test in respect of other parties, viz., respondents 2 and 3 and the minor child, for which, the petitioner has no right. I have also carefully gone through the materials available on record, I find no illegality or irregularity in the order passed by the Trial Court.

The petitioner cannot ask for DNA test in respect of a third party alleging that, child by name Bharathi was born to the 2nd respondent. The petitioner can very well prove adultery by other available evidence. Hence, I find no merit in this Civil Revision Petition. However, considering the fact that, O.P. is pending from the year 2015, the Trial Court is directed to proceed with O.P., and dispose the same within a period of six months from the date of receipt of copy of this order. Accordingly, this Civil Revision Petition stands dismissed. No costs.

10.01.2020

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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Note : Issue order copy on 03.02.2020

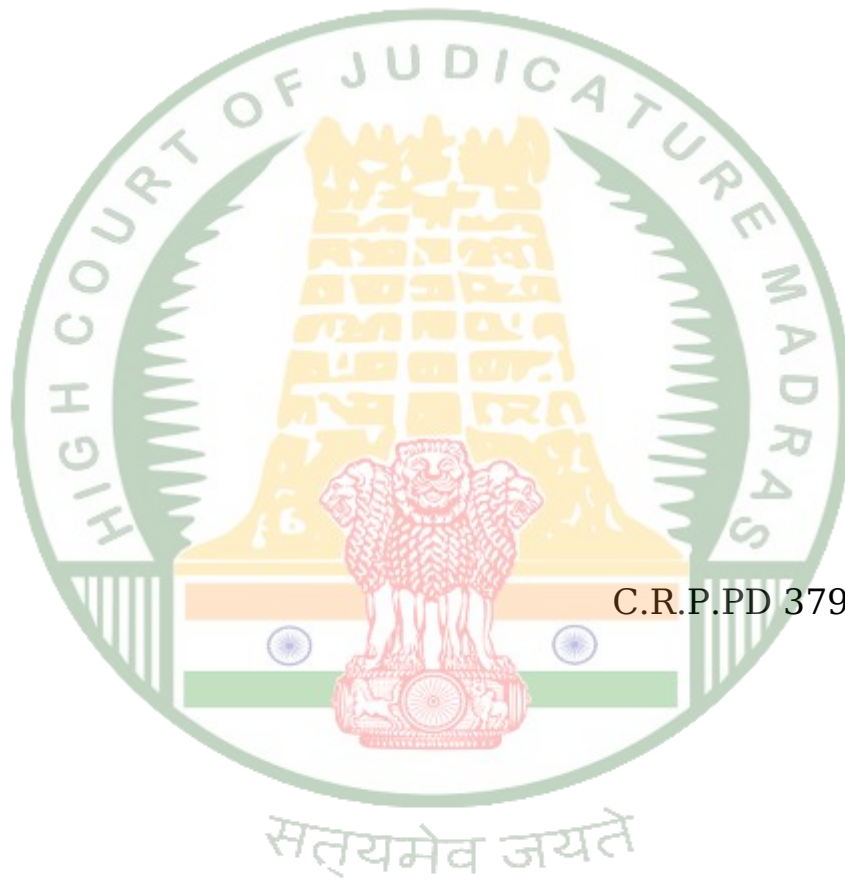
To

Family Court Judge,
Puducherry.

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V.BHARATHIDASAN,J.

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