



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**

C.R.P (MD) Nos.1076 and 1077 of 2020

B.Yugesh

...Petitioner in Both C.R.P.

Vs.

- | | |
|----------------------|---|
| 1. H. Thameem Ansari | ... 1 st Respondent/Petitioner
in CRP (MD).1076 of 2020 |
| 2. B.Kokilavani | ... 2 nd Respondent/Respondent
in CRP (MD).1076 of 2020 |
| 1. B.Kokilavani | ... 1 st Respondent/Petitioner
in CRP (MD).1077 of 2020 |
| 2. H.Thameem Ansari | ... 2 nd Respondent/Respondent
in CRP (MD).1077 of 2020 |

COMMON PRAYER: These Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the order dated 27.08.2020 made in unnumbered I.A. No. of 2020 in S.M.O.P.Nos.1 and 3 of 2017 respectively on the file of the Family Court, Dindigul.

For Petitioner : Mr.P.Arun Jayatram

C O M M O N O R D E R

The petitioner herein claims that he has married the second respondent and that it has now come to light that on the date of his marriage with her, an earlier marriage of the first respondent with another person was subsisting and that both the first respondent and her former spouse were litigating at least two matrimonial disputes. Therefore, the petitioner has applied for certified copy of the documents pertaining to the earlier matrimonial dispute between the respondents, but the same was rejected on the ground that it involves privacy of the first respondent.

2. The relevant provisions are Rule 128(5) Civil Rules of Practice and Section 8(j) of Right to Information Act 2005. These provisions reads as follows:

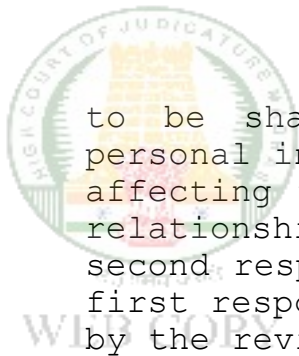


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Rule/Section	Provision
Rule 128(5) of Civil Rules of Practice	In cases where it is doubtful whether the document of which a copy is applied for is one for which a copy can or ought to be granted and in all cases, where the applicant is not a party to the suit or proceeding, the application shall be placed before the judge who shall decide whether it should be granted or refused. If the application is refused by the judge, it shall be returned to the applicant with the order of the judge endorsed thereon.
Section 8 of Right to Information Act, 2005	Exemption from disclosure of information: (a) to (i)... (j): information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.

3. A careful reading of Rule 128(5) of Civil Rules of Practice would indicate that in every case an application for obtaining certified copy is made, and more particularly in a case where the third party to a litigation files an application for issuance of a certified copy, the Judge concerned has the discretion not to allow it. However, this is largely whittled down by provisions of the Right to Information Act, 2005, and the court is now bound to provide certified copies of any documents. However Section 8 of the Right to Information Act, 2005, carves out few exceptions to the kind of documents which the authorized officer need not provide. It provides that any personal information, the disclosure of which has no relationship with any public activity or interest, need not be given.

4. First it has to be stated that after the advent of the Right to Information Act, information in the custody of the court is liable



to be shared with any applicant. Secondly, the Rule exempting personal information which may also be interpreted as an information affecting the privacy of a person need not be shared, if it has no relationship to any public activity. Here is a situation where the second respondent is a party to an alleged second marriage with the first respondent, and if this marriage is subsisting as is suspected by the revision petitioner, then. it is imperative he shall have the copies of those documents. This Court considers that the learned Judge has narrowed down the scope of his power while exercising his discretion under Rule 128(5) Civil Rules of Practice.

5. Accordingly, these Civil Revision Petitions are allowed and the orders dated 27.08.2020 made in unnumbered I.A. No. of 2020 in S.M.O.P.Nos.1 and 3 of 2017 on the file of the Family Court, Dindigul, are set aside. The Trial Court is now required to take the application onto its file and issue copies thereof. No costs.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar (CS)

CM

To

1.The Family Court, Dindigul.

2.The V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.P.ARUN JEYATRAM, Advocate SR.No. 27158

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ES (CO)

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