

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.(PD) No.984 of 2021
and
C.M.P.No.7872 of 2021

R.Saravanan

.. Petitioner/Petitioner/Respondent/Husband

Vs

D.Shanmuga Priya

.. Respondent /Respondent/Petitioner/Wife

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the decreetal order in I.A.No.1 of 2020 in O.P.No.1566 of 2018 on the file of the VII Additional Principal Judge, Family Court, Chennai.

For Petitioner

.. Ms.S.Revathy

For Respondent

.. Mr.S.Veeraraghavan

ORDER

The petitioner in I.A.No.1 of 2020 which had been filed in O.P.No.1566 of 2018 pending before the VII Additional Family Court, Chennai, is the revision petitioner herein. The said application was dismissed by order dated 21.12.2020.

2.O.P.No.1566 of 2018 had been filed by the respondent herein taking advantage of Sections 13(1)(ia) and 13(1)(ib) of the Hindu Marriage Act, 1955.

3.Counter had been filed by the present petitioner in his capacity as respondent in the Original Petition. Pending the said petition, the petitioner herein had also filed O.P.No.1084 of 2019 taking advantage of Section 9 of the Hindu Marriage Act, 1955. Counter had also been filed in the said application. Proof affidavit had also been filed and the parties have grazed the witness box.

4.At that stage, I.A.No.1 of 2020 came to be filed by the revision petitioner herein / husband. The relief sought in the said application was to refer both the parties to Medical Board of Government General

Hospital, Chennai for medical examination, for the purpose of proving whether the marriage was consummated or not and to submit a report to the Court within a stipulated period.

5.Counter was filed in the said application. The learned Judge had thought it fit to dismiss the application. The learned Judge had observed that, as a fact, the respondent / wife had not sought any declaration seeking dissolution of the marriage on the ground of impotency. She had never referred to any alleged impotency of the petitioner as a ground of divorce.

6.The petition has been filed seeking to refer the parties to Medical Board to determine whether the marriage is consummated or not. The marriage between the parties was conducted on 29.06.2015 nearly about six years back and after such a long time, it would be highly impossible for any medical opinion to be obtained on that aspect.

7.It is also seen that in the counter filed by the present revision petitioner that both the parties were unfortunately not blessed with any children and on that account they also taken medical treatment.

8.It is now for the respective parties to graze the witness box to adduce necessary evidence and establish their respective cases and then leave it to the learned Judge to analyze the evidence and deliver a judgment on the basis of the material record available.

9.I concur with the reasonings given by the learned Judge that the petition has been filed only to harass the respondent herein. Let the revision petitioner participate in the trial proceedings and produce admissible evidence which are relevant and prove them in manner known to law and call upon the Court to deliver a judgment on merits.

10.With the above observations, the Civil Revision Petition is dismissed. No order as to costs. Consequently, the connected Civil Miscellaneous Petition is closed.

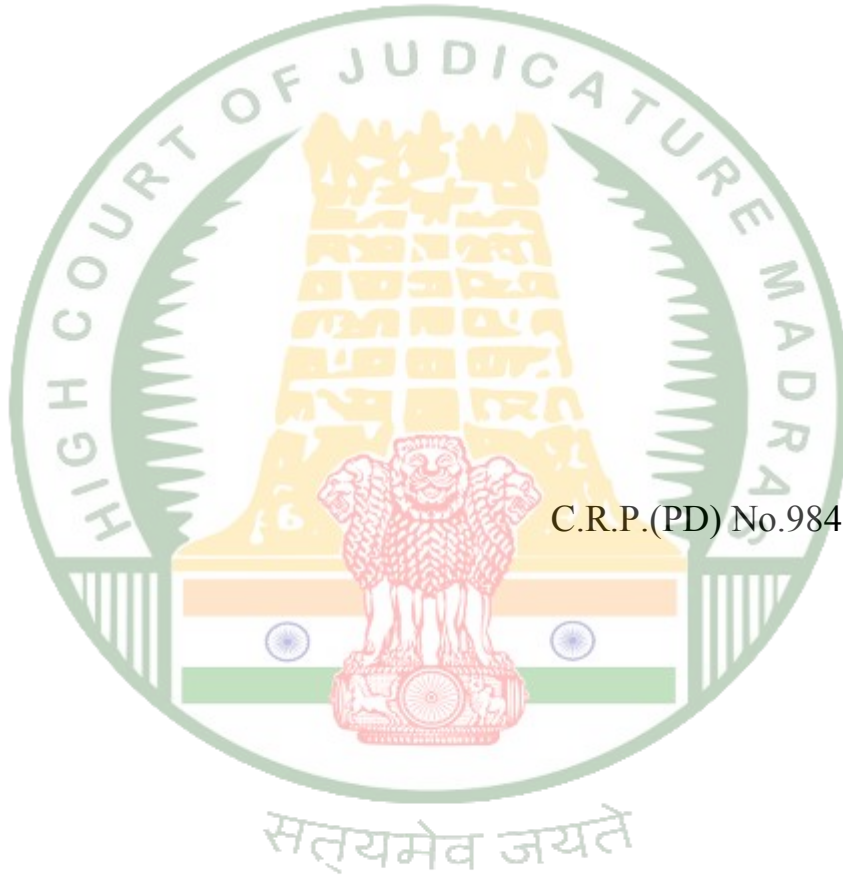
11.The observations in the present order may not influence the learned Judge while deciding the issues on merits.

Internet:Yes/No
Index:Yes/No
smv

To
The VII Additional Family Court,
Chennai.

C.V.KARTHIKEYAN,J.

smv



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