

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 18.02.2021

CORAM:

THE HONOURABLE MRS. JUSTICE **V.BHAVANI SUBBAROYAN**

C.R.P. (PD) No.261 of 2021
and
C.M.P.No.2466 of 2021

N.Baskaran ...Petitioner/Petitioner

Vs

1.Vennila

2.P.Kannan

...Respondents/Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 22.12.2020 made in Un-Numbered I.A.No.---- of 2020 in F.c.H.M.O.P.No.1 of 2019 on the file of the Family Court, Dharmapuri.

For Petitioner : Mr.V.R.Annagandhi

ORDER

The present petition has been filed against the order dated 22.12.2020 passed by the Family Court, Dharmapuri, in un numbered I.A.No..... of 2020 in F.C.H.M.O.P.No.1 of 2019.

2. The interim application was preferred by the petitioner for re-opening the H.M.O.P. and for taking further evidence in the matter. The said petition was opposed by the respondent/wife contending that the action on the part of the petitioner/husband is only for the purpose of dragging on the issues, and therefore, the petition filed by the plaintiff is not maintainable.

3. After affording an opportunity of hearing to both the parties on the question of maintainability, the trial Court held that the petition is not maintainable and therefore challenging the same, the present petition is filed.

4. The learned counsel for the petitioner would submit that the Court below ought to have considered that there is no bar much less legal bar for examining more than one witness to establish the case of the parties by examining his daughter aged about 18 years, who is one of the eye witness to the evidence of the family. It is the further contention of the petitioner that

an opportunity should be provided to him to discharge the burden of proof relating to the conduct of the respondent. Further, without giving any reason as to why the petition is not maintainable, the order has been passed, which is liable to be interfered.

5. This Court heard the learned counsel for the petitioner and perused the materials available on record.

6. A perusal of the order sheet of the Court below reveals that initially, the respondent objected the matter on the question of maintainability and therefore the matter was listed for maintainability on very many days. However, the Court below held that the petition was not maintainable. In this regard, it is evident from the materials available in record that during the trial of the case, both oral and documentary evidences were put fourth by both the parties and after closure of the witnesses, the case was listed for the purpose of arguments of the parties. Only on that belated point of time, the present petition to re-open the case had been filed.

7. It is the stand of the first respondent before the Court below that only for the purpose of tarnishing her image, the second respondent has been represented by the petitioner and illicit intimacy has been alleged by the petitioner. In fact, the petitioner, without providing the maintenance sought for by the respondent is trying to terrorise her daughter to give false evidence against her. It is the further evident from the counter of the respondent before the Court below as early as on 2016, there daughters were taken by the petitioners along with him and no maintenance has been paid till date to the respondent. The original petition has been filed in the year 2019 and after a lapse of almost a year and half with all evidence, both oral and documentary evidence has been adduced and the matter has been closed for arguments of the parties and filing the petition for re-opening the issue is nothing but to drag on the proceedings. This aspect has been rightly appreciated by the Court below and the Court below concluded that the petition is not maintainable.

8. This Court finds that there is no reason to interfere with the said order. Accordingly, this civil revision petition stands dismissed. No costs. Consequently connected civil miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

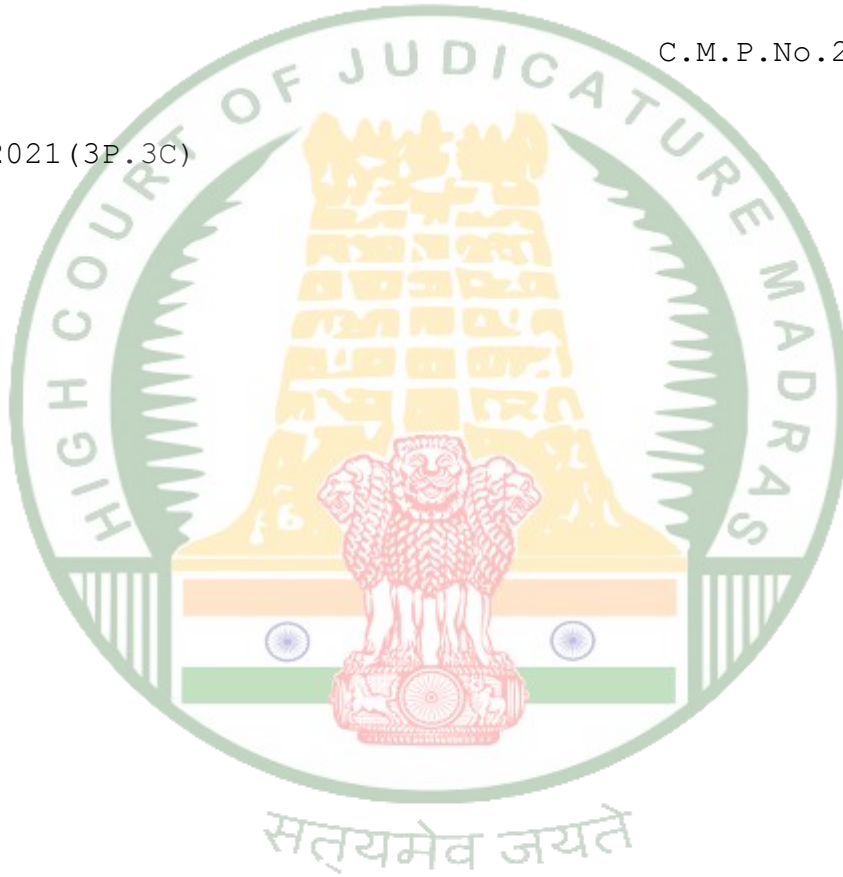
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To
The Judge,
The Family Court,
Dharmapuri.

+1 cc to Mr.V.R.Annagandhi,Advocate Sr No.9755

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