

C.R.P.(PD) No.423 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD) No.423 and 425 of 2021

and

C.M.P. Nos.3693 & 3696 of 2021

R. Sivakumar

... Petitioner
in both CRPs

Vs.

S.V. Gowri @ Gowri Bai

... Respondent
in both the CRPs

Common Prayer: These Civil Revision Petitions filed under Article 227 of the Constitution of India, praying for to set aside the fair and decreetal order dated 29.01.2021 passed in I.A. Nos.8 and 9 of 2021 in O.P.No.4268 of 2018 by the learned VII Additional Principal Family Court, Chennai.

For Petitioner ... Mr. S.S. Jayanthi
For Respondent ... Mr. R.Y. George William
(For Caveator)

COMMON ORDER

These Civil Revision Petitions have been filed under Article 227 of the Constitution of India, praying for to set aside the fair and decreetal order dated 29.01.2021 passed in I.A. Nos.8 and 9 of 2021 in O.P.No.4268 of 2018 by the learned VII Additional Principal Family Court, Chennai.

2. The case of the petitioner herein that the respondent-wife has filed O.P. No.4268 of 2018 against the petitioner-husband for dissolution of marriage held on 13.12.1995. Pending the main petition, the respondent-wife has filed Interlocutory Applications in I.A. Nos.8 and 9 of 2021 before the Court below under Section 10(3) of Family Court Act read with Section 151 of C.P.C. seeing for to issue summons to the Headmaster of Dr.Radhakrishnan Matriculation Higher Secondary School, Krishnamoorthy Nagar, Kodungaiyur, Chennai and the to the Head Master, Everwin Vidhyashram, CBSE School, Kolathur, with a direction to furnish the admission and fees structure details of students

R.S.Rahul and R.S.Sonyka. The same was allowed by order dated 29.01.2021 by holding that when adjudication of the issue as the cruelty and adultery caused by the petitioner -husband to the respondent-wife and when the burden is upon the respondent-wife to establish that the petitioner-husband has committed cruelty and adultery to the respondent-wife and when the respondent-wife believes that the school admission details of the R.S. Rahul and R.S. Sanyka would support her case that the petitioner-husband is having illicit relationship with the 2nd respondent herein. Being aggrieved by the aforesaid order, the petitioner-husband had filed the present Civil Revision Petition to set aside the same.

3. The learned counsel for the petitioner would submit that the Court below ought not to have issued summons to the headmasters of the schools to furnish the admission and fees structure details, to prove the adultery of the petitioner-husband, when the petitioner side evidence has been closed in the Trial Court. Without even re-opening and recalling the petitioner side evidence, it is inappropriate for the trial Court to allow these applications and prayed for setting aside the orders of the Court below.

4. Mr.R.Y.George William, the learned counsel by way of caveat appeared before this Court and produced the documents to show that when the Court below had passed the order on 29.01.2021 summoning the said witnesses from the schools calling for the records, the representatives of the concerned Schools has also appeared before the Court below and produced the documents on 05.02.2021 which are all sought for in both the applications. Thereafter, based on the said documents, on subsequent dates, the cross examination has been conducted and also completed. Further, the said Original Petition in O.P. No.4268 of 2018 is posted for further evidence and arguments of both sides. As there is already a direction to the Court below to complete the proceedings within a period of 6 months, the Court below has not adjourned the matter when the petitioner-husband has sought for adjournment and proceeded further in this matter.

5. This Court perused all the documents and materials produced before this Court and found that both the Civil Revision petitions are become infructuous, as the Court below has issued subpoena to the School Headmaster concerned to produce all the documents and the said

documents have been produced and cross examination are also over based on the said documents.

6. In view of the aforesaid observations and submissions made by the learned counsel for the Caveator, without going into the merits of the case, this Court is of the view that both parties are at liberty to put forth the case based on the documents and other materials before the Family Court in accordance with law. Accordingly, these Civil Revision Petitions stand dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

05.03.2021

Lbm

Index: Yes/No.

Speaking/Non-Speaking order

Internet: Yes/No.

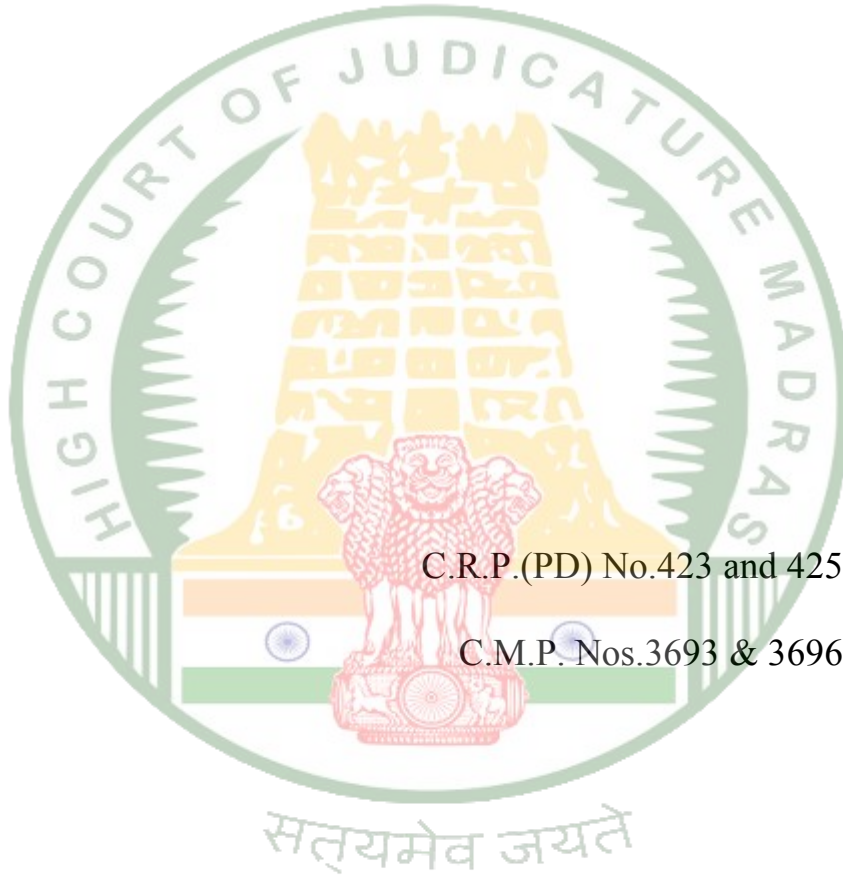
To:

The VII Additional Principal Family Court,
Chennai.

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V.BHAVANI SUBBAROYAN, J.,

lbm



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