

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(P.D).No.3618 of 2016
and C.M.P.No.18371 of 2016

Padma ...Petitioner

Vs

Ravindaran ...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order made in I.A.No.18 of 2016 in H.M.O.P.No.140 of 2013 dated 23.09.2016 on the file of the Sub Court, Pollachi, Coimbatore District.

For Petitioner : Mr.C.Veerarahavan

For Respondent : Mr.S.Sathiya for
Mr.P.S.Kothandaraman

ORDER

The Civil Revision Petition is arising out of the fair and decretal order made in I.A.No.18 of 2016 in H.M.O.P.No.140 of 2013 dated 23.09.2016 on the file of the Sub Court, Pollachi, Coimbatore District, thereby dismissing the petition filed by the petitioner herein to subject the

respondent and her daughter-Niveditha for DNA test.

2.The respondent filed a petition for restitution of conjugal rights in H.M.O.P.No.140 of 2013. After examination of P.W.2, the petitioner filed a petition for subjecting the respondent and his daughter-Niveditha for DNA test, to disprove the fact of the respondent herein that the said Niveditha is not born through him.

3.On perusal of the counter filed by the petitioner in restitution of conjugal rights petition filed by the respondent, the petitioner denied the very marriage itself held between herself and the respondent herein. She further submitted that the respondent herein got married with one Jothimai and gave birth to the child Niveditha. When the said Jothimani is very much alive, namely the legally wedded wife, it cannot be said that the petitioner is the legally wedded wife of the respondent herein. While cross examination, the respondent exhibited that he is ready and willing to go for DNA test to disprove the birth of Niveditha through the said Jothimani. Therefore, the petitioner filed a petition in I.A.No.18 of 2016 in H.M.O.P.No.140 of 2013 for sending them to DNA test.

4.Admittedly, the respondent adopted the said daughter-Niveditha

and she is not born through the petitioner herein. The respondent filed a petition for restitution of conjugal rights and as such there is absolutely no circumstance for conducting DNA test to disprove the birth of Niveditha through the respondent herein. That apart, there is no issue in respect of the birth of Niveditha between the petitioner and the respondent herein. Therefore, the Court below rightly dismissed the petition. Further this Court finds no infirmity or irregularity in the order passed by the Court below in I.A.No.18 of 2016 in H.M.O.P.No.140 of 2013 dated 23.09.2016 on the file of the Sub Court, Pollachi, Coimbatore District,

5.Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

22.01.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To
The Sub Court, Pollachi, Coimbatore District.

G.K.ILANTHIRAIYAN.J,

C.R.P.(P.D).No.3618 of 2016

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