

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Monday, the Eighth day of February Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice T.RAJA

and

The Hon`ble Mr Justice G.CHANDRASEKHARAN

CMP Nos.17061 and 1320 of 2018

IN CMA.NO.1890 OF 2015

G.PAUL SEBASTIAN

[PETITIONER IN BOTH THE PETITIONS]

Vs

S.GIFTA KEZHIYA

[RESPONDENT IN BOTH THE PETITIONS]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to receive the Documents mentioned in the petition as Additional Documents on my side in CMA No.1890 of 2015 (in CMP.No.17061/2018) pending disposal of he above appeal 1890/2015 and;

(ii) to receive the additional Documents mentioned in the above appeal in CMA.No.1890 of 2015 (in CMP.1320/2018) pending disposal of he above appeal 1890/2015 respectively.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.S.KAMADEVAN, Advocate for MR.P.GANESAN Advocate for petitioner in both the petitions and of MR.THIYAGARAJAN Advocate for MR.T.RAVI Advocate on behalf of the Respondents in both the petitions the court made the following order:-

(Order of the Court was made by T.RAJA, J.)

C.M.P.Nos.17061 & 1320 of 2018 in C.M.A.No.1890 of 2015 have been filed to receive the documents mentioned in the petitions as additional documents on the side of the petitioner/appellant under Order XLI, Rule 27 of the Code of Civil Procedure.

2. Mr.S.Kamadevan, learned counsel appearing for the petitioner/appellant, referring to Rule 27(1)(aa) & (b) of Order XLI of the Code of Civil Procedure, requested us to accept these additional documents in the interest of justice, for the reason that the petitioner/appellant was misled by the respondent about the factum of her first marriage, because it was found from the marriage certificate issued by the Church that she was a spinster and not a divorcee. Since the Pastor (Bishop) P.G.Ramesh, who solemnized the marriage of both the petitioner/appellant and the respondent in "The Church of Peace", Periyanaickenpalayam, Coimbatore, has issued the marriage certificate stating clearly that Gifta Kezhiya had suppressed the factum about the earlier marriage and divorce, this document is crucial to substantiate the allegation of the petitioner/appellant that the respondent had played fraud with the petitioner/appellant while settling the marriage alliance. Even the divorce petition filed by the respondent and the consequential divorce decree granted by the competent civil Court also have been obtained. But these documents could not be placed in spite of due diligence before the trial Court. However, after exercise of due diligence, they were able to obtain the same after the judgment and decree were passed by the trial Court. When these documents are all part of the documents and adjudicated by the competent civil Court in the earlier divorce proceedings in respect of the respondent in I.D.O.P.No.181 of 2005 on the file of the learned Principal District Judge, Chengalpattu, they may be taken on record, he pleaded.

3. Mr.Thiyagarajan, learned counsel appearing for the respondent, after going through the documents that were part of the divorce proceedings in I.D.O.P.No.181 of 2005, was unable to oppose the prayer of the petitioner/appellant.

4. Having heard learned counsel appearing for the parties and having gone through the nature of the documents sought to be marked on the side of the petitioner/appellant, we are of the view that the civil miscellaneous petitions filed under Order XLI, Rule 27 of the Code of Civil Procedure deserve to be allowed. Accordingly, the civil miscellaneous petitions are ordered as prayed for.

Registry is directed to list the C.M.A.No.1890 of 2015 on 15.02.2021.

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Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

THE DISTRICT JUDGE,
TIRUVALLUR.

Order
in
CMP Nos.17061 and 1320 of 2018
IN CMA.NO.1890 OF 2015
Date :08/02/2021

From 26.2.2001 the Registry is issuing certified
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