



CRP (NPD) No.2388 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

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V.P.Harish Kumar

... Petitioner

Vs

Abinaya

... Respondent

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, against the rejection of UN FCOS SR.No.1424 of 2021, dated 04.10.2021 passed by the learned Family Judge, Vellore District.

For Petitioner : Mr.B.Gopalakrishnan

ORDER

This Revision is directed against the order of the Family Court, Vellore, dated 04.10.2021 wherein the Family Court has rejected the suit filed by the petitioner seeking declaration that the marriage between the petitioner and the respondent held on 29.10.2020 is valid and they are



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husband and wife. The learned Judge has rejected the petition on the ground that there is no proof of solemnisation of marriage.

2. Rejection of the suit for declaration for absence of proof is not contemplated under the Code of Civil Procedure. The Court cannot reject the suit for absence of proof. The Court has to assume that the averments made in the plaint are true and proceed with the same while numbering the suit. This Court had laid down elaborate guidelines for numbering the suits and return of plaints in ***Selvaraj Vs Koodankulam Nuclear Power Plant India Limited, Rep. through its Project Director*** reported in ***(2021) 5 MLJ 467***. If the Family Court had adverted to the above decision, it would not have rejected the suit by a cryptic order seeking proof of the marriage. I am, therefore satisfied that the order of the Family Court is liable to be set aside. Since the order of the Family Court is passed even before numbering of the suit and without notice to the defendant, I do not see any need to issue notice in this Revision. The order of the Family Court dated 04.10.2021 is set aside.



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3. The Family Court, Vellore is directed to number the suit and proceed with the same in accordance with law laid down in ***Selvaraj Vs Koodankulam Nuclear Power Plant India Limited, Rep. through its Project Director*** reported in ***(2021) 5 MLJ 467***, supra. No costs. Consequently, connected miscellaneous petition is closed.

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vum

Index: Yes/No

Speaking order / Non speaking order

To:

The Family Judge, Vellore District.



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R.SUBRAMANIAN, J.

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