



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(MD)No.25 of 2021

and

CMP(MD).No.325 of 2021

Manikandan

...Petitioner/Petitioner/Plaintiff

vs.

Maheshwari

...Respondent/Respondent/Defendant

PRAYER: Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 28.10.2020 passed in I.A.No.2 of 2020 in O.S.No.168 of 2016 on the file of the Additional District Munsif Court, Tenkasi and allow the present Civil Revision Petition.

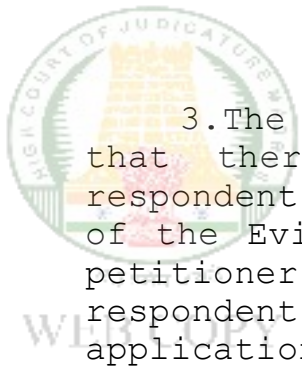
For Petitioner

: Mr.R.J.Karthick

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 28.10.2020 passed in I.A.No.2 of 2020 in O.S.No.168 of 2016 on the file of the Additional District Munsif Court, Tenkasi and allow the present Civil Revision Petition.

2.The learned counsel for the petitioner would submit that the petitioner and the respondent are close relatives. Due to that relation, the respondent alleged that the petitioner married the respondent on 07.07.2014. Thereafter, on 06.02.2015 the respondent blessed with one female child. Under such circumstances, the petitioner filed a suit in O.S.No.168 of 2016 on the file of the Additional District Munsif Court, Tenkasi for the relief of permanent prohibitory injunction restraining the respondent or her men from disturbing the petitioner's life in the name of marriage. To prove that the respondent's daughter is not born through the petitioner, he filed I.A.No.2 of 2020 in O.S.No.168 of 2020, subjecting the respondent's daughter to undergo DNA test. After hearing the case, the Court below dismissed the said I.A by citing Section 112 of the Evidence Act, against which, the present Civil Revision Petition has been filed.



3.The learned counsel for the petitioner further submitted that there is no marriage between the petitioner and the respondent. The condition precedent for invocation of Section 112 of the Evidence Act will not come into play as according to the petitioner, there is no marriage between the petitioner and the respondent. Therefore, the learned Judge ought to have allowed the application for DNA test.

4.Heard the learned counsel for the petitioner and perused the materials available on record.

5.Perusal of record shows, the learned Judge has elaborately dealt with the matter and finding that the suit itself has been filed for permanent injunction from interfering into the petitioner's peaceful life by stating that there is no marriage between the petitioner and the respondent and for that DNA test is not necessary. It is for the parties to prove there was a marriage solemnized between them by way of letting in evidence and not by DNA test. Therefore, the learned Judge has rightly dismissed the application, where I do not find any infirmity.

6.With the above observation, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

msa

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Additional District Munsif, Tenkasi

2.The Section Officer,V.R.Section,

Madurai Bench of Madras High Court, Madurai(2 copies).

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