



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 05.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) No.181 of 2021

R.Balamurugan

... Petitioner / Petitioner
Vs.

Sharmila

... Respondent / Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to direct the Sub Court, Aruppukkottai, Virudhunagar District to number the petition unnumbered H.M.O.P. Petition in S.R.No.4563/2020 filed on 05.12.2020.

For petitioner : Mr.R.Murugappan
For respondent : Mr.S.Prabaharan

ORDER

This Civil Revision Petition has been filed by the petitioner seeking a direction to the Court below to number H.M.O.P.SR.No.4563 of 2020 filed on 05.12.2020.

2. The learned counsel for the petitioner submitted that the above HMOP was filed by the petitioner under Section 13(1)(iii) of the Hindu Marriage Act seeking divorce from the respondent on the ground that the respondent and her parents have solemnized the marriage with the petitioner suppressing the factum of taking treatment for the past 13 years by the respondent for her mental depression. Though SR.No.4563 of 2020 was assigned to the said petition, the Court below has returned the said petition twice by raising the issue of maintainability in a routine manner. Hence, the petitioner has come up with this petition for the aforesaid direction. Thus, he prayed to allow this revision petition.

3. The learned counsel appearing for the respondent would submit that numbering of the case is an issue between the Court and the petitioner and the respondent has no say about it.

4. Heard the learned counsel appearing for both sides and perused the materials available on record.

5. It is seen that the Court below has initially returned the petition raising three queries. They are (a) Cruelty is not mentioned; (b) the respondent's address proof required; and (c) How this petition is maintainable under Section 13(1)(i-a). On 22.12.2020, the petitioner represented the petition stating that the HMOP petition is filed under Section 13(1)(iii) and that proof of address of the respondent will be produced at the time of enquiry. Again, on 04.01.2021, the Court has returned the petition raising the question of maintainability under Section 13(1)(iii) by giving



one month time. But, the petitioner, without representing the said petition by giving proper reply, has hurriedly approached this Court seeking a direction to the Court below to number the petition. At the same time, it is needless to say that the Court below cannot go into the merits of the case at the numbering stage itself.

6. In view of the above, this Civil Revision Petition is dismissed. However, as the petitioner has approached this Court before the expiry of the time given by the Court below for representation, the petitioner is directed to represent the petition before the Court below with proper reply to the query raised by the Court below dated 04.01.2021 within a period of two weeks from the date of receipt of a copy of this order. If the Court below satisfy with the reply that would be given by the petitioner, it can number the petition and then, decide the matter on merits or otherwise, the Court below can list the matter in the open Court and then decide about the maintainability by giving an opportunity to the petitioner. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The Subordinate Judge,
Aruppukkottai,
Virudhunagar District.

+1 CC to M/s.R.MURUGAPPAN, Advocate (SR-7930[F] dated 01/03/2021)

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TP(CO)
KB(24.04.2021) 2P 3C