



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) .No.254 of 2021

and

C.M.P. (MD) No.1496 of 2021

S.Soundara Balaji

... Petitioner/Respondent/Petitioner

Vs.

R.Sandhya @ R.Gandhimathi

... Respondent/Petitioner/Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order, dated 16.03.2020 made in I.A.No.1 of 2019 in H.M.O.P.No.395 of 2016 on the file of the learned Principal Subordinate Judge, Tiruchirapalli and set aside the same.

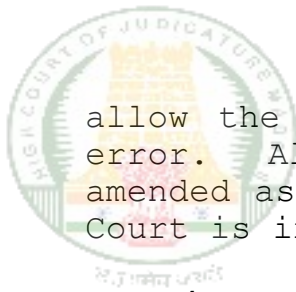
For Petitioner : Mr.T.Antony Arulraj
For Respondent : No appearance

O R D E R

This Civil Revision Petition has been filed to set aside the fair and decreetal order, dated 16.03.2020 in I.A.No.1 of 2019 in H.M.O.P.No.395 of 2016 passed by the learned Principal Subordinate Judge, Tiruchirapalli.

2.The petitioner is husband of the respondent herein. The petitioner/husband has filed a petition in H.M.O.P.No.395 of 2016 on the file of the learned Principal Subordinate Judge, Tiruchirappalli, seeking divorce. The respondent/wife has appeared and filed counter affidavit on 19.12.2017. In the meantime, the respondent herein /wife has filed a interlocutory application in I.A.No.1 of 2019 in H.M.O.P. No.395 of 2016, under Order 6 Rule 17 of Civil Procedure Code, to amend necessary points in the counter affidavit for the purpose of determining the real questions in controversy and the same was allowed by order, dated 16.03.2020. Against the said order, the revision petitioner has filed this Civil Revision Petition.

3.The learned counsel appearing for the petitioner would submit that nine paragraphs of the counter affidavit to be amended and that too after the examination of P.W.1. In the said HMOP, P.W.1 was already cross examined by the respondent. After that only, the amendment petition has been filed. Eventhough the respondent sought relief for amendment is contrary to the original counter affidavit which cannot be allowed under Order 6 Rule 17 of Civil Procedure Code. The reasons assigned by the Court below is not sufficient to



allow the petition. It is not a typographical error or clerical error. Almost all the paragraphs of the counter affidavit to be amended as contra to the original counter affidavit and hence, this Court is inclined to allow this Civil Revision Petition.

4. In view of the aforesaid reasons, this Civil Revision Petition stands allowed by setting aside the fair and decreetal order, dated 16.03.2020 in I.A.No.1 of 2019 in H.M.O.P.No.395 of 2016 passed by the learned Principal Subordinate Judge, Tiruchirapalli. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

The Principal Subordinate Court,
Tiruchirapalli

Order made in
C.R.P. (MD) .No.254 of 2021

03.09.2021

RS (15.09.2021) 2P 2C