

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.No.1082 of 2022

and

C.M.P.No.5551 of 2022

D.S.Prabhu

...Petitioner

..Vs..

K.Swetha

...Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 12.01.2022 passed in I.A.No.5 of 2021 in O.P.No.1344 of 2020 on the file of the learned V Additional Principal Judge, Family Court, Chennai.

For Petitioner : Mr.D.S.Prabhu (party in person)

For Respondent : No appearance

O R D E R

This Civil Revision Petition has been preferred challenging the order of the learned V Additional Principal Judge, Family Court, Chennai, dated 12.01.2022 made in I.A.No.5 of 2021 in O.P.No.1344 of 2020.

2.The revision petitioner is the husband and he has filed HMOP.No.1344 of 2022 for declaring the marriage between himself and the respondent as null and void. Pending the proceedings, he has filed a petition in I.A.No.5 of 2021 for referring the respondent to Medical Board for Medical Examination of (i) Uterus Problem, (ii)Hormone Imbalance, (iii) PCOS and (iv) Vaginal Examination and the said petition was dismissed. Aggrieved over that, the petitioner/husband has preferred this revision.

3.The petitioner who appeared in person has submitted that the report of these examinations of the respondent/wife are necessary to prove his contention that the respondent has

suppressed her health issue before the marriage.

4.The learned trial Judge while dismissing the petition observed that the health issues, which are reported to be present in respect of the respondent cannot be construed as impotency and for this reason, the respondent cannot be subjected to medical examination.

5.The petitioner submitted that failure to reveal health issues before marriage would amount to suppressing essential facts and that would affect the very marriage. If the health issue is like impotency, it is understandable that there is suppression of facts and that would affect the very marriage. If the petitioner is affected due to any other reasons or reasons of the health issues of the respondent, it is up to him to construe those repercussions as mental or physical cruelty caused on him. If for any reasons, the health report of the respondent is absolutely necessary for the purpose of resolving any marital issue and if the respondent avoids to subject herself for medical examination or produce the medical report, it is open to the Court to take adverse presumption against her, depending on the case situation.

6.In view of the reasons stated, the Court cannot compel the respondent to subject the respondent to medical examination by a Medical Board. Hence, I do not find no ground for interference. Dismissed.

7.Accordingly, the Civil Revision Petition is dismissed and the order of the learned V Additional Principal Judge, Family Court, Chennai, dated 12.01.2022, made in I.A.No. 5 of 2021 in O.P.No.1344 of 2020, is hereby confirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

vkr

To

1. The V Additional Principal Judge,
Family Court, Chennai.

Copy To

The Section Officer,
VR Section, Madras High Court,
Chennai.

+3cc to M/s.D.S.Prabhu, Petitioner in Person, S.R.No.38413

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PMK(CO)
RGA(19/07/2022)