



WEB COPY

C.R.P. (PD) No.1611 of 2022
and C.M.P. No.8068 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.R.P. (PD) No.1611 of 2022
and C.M.P. No.8068 of 2022

I.Abdul Razack

...

Petitioner /
Plaintiff

versus

M.Nazreen Banu

...

Respondent /
Defendant

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.03.2021 made in I.A.No.1 of 2020 in O.S.No.2 of 2017 on the file of the learned Judge, Family Court, Villupuram.

For Petitioner : Mr.S.Balasubramaniam

For Respondent : Mr.A.P.Neelamegavannan

ORDER

This Civil Revision Petition has been preferred challenging the order of the learned Judge, Family Court, Villupuram, dated 04.03.2021 made in I.A.No.1 of 2020 in O.S.No.2 of 2017.



WEB COPY

2. The revision petitioner is the plaintiff, who has filed the suit against the respondent to declare the marriage held between himself and the respondent on 27.05.2011 as null and void. After the parties got examined in the suit and the trial was completed, the revision petitioner / plaintiff has filed a petition for amending the plaint and the said petition was dismissed. Aggrieved over that, the plaintiff has filed this Civil Revision Petition.

3. The learned counsel for the petitioner submitted that when the petitioner found certain deficiencies in the pleadings, he filed a petition before the Court for seeking permission to withdraw the suit with liberty to file a fresh one but the same was dismissed; hence the revision petitioner has got no other go except to file a petition to amend his pleadings in accordance with the particulars of amendment shown in his petition; if the amendment is not made that will grossly prejudice the interest of the petitioner; even in the impugned order the Court made observations about the necessity for amendment and for which the revision petitioner was not amenable at some point of the proceedings; since the



Court itself is felt the necessity for the amendment the petition ought to have been allowed in the interest of justice.

4. The learned counsel for the respondent submitted that the revision petitioner had already filed a petition in I.A.No.17 of 2019 wherein he has stated that the Court should not suggest him to amend the plaint; having shown such a conduct the revision petitioner cannot be encouraged later to do things at his whims and that too after the trial was over and the matter was reserved for judgment.

5. The records would show that there are some inconsistencies in the pleadings made by the revision petitioner in his plaint. At one point he accepts the validity of the marriage but sought a prayer to declare the marriage as null and void. The inconsistencies were found out by the Court itself and the Court also shown indulgence to allow the amendment, in case the plaintiff comes forward with an application. But the good intention of the Court was not understood by the petitioner and he



filed a petition for a negative relief which will not go good with the powers of any Court for that matter.

6. The fact remains that the petition filed by the revision petitioner seeking permission to withdraw the suit with liberty to file a fresh one was dismissed. The learned counsel for the respondent pointed out that the revision petitioner has challenged the said order by way of preferring a Civil Revision Petition before the High Court. However the learned counsel for the revision petitioner submitted that the said Revision was withdrawn even before it was taken on file.

7. Be that as it may be, at this juncture, if the revision petitioner is not allowed to carry out the amendment that will cause prejudice to him. No doubt the petitioner has come up with a petition at the stage when the trial was over and the matter is reserved for judgment. The learned counsel for the revision petitioner submitted that even if the amendment petition is allowed, there will not be any necessity for him to recall any of the witnesses. In that case, no harm will be caused to the



WEB COPY

respondent by allowing the amendment petition. However, the act of the revision petitioner in bringing up the petition at a dilated stage would have caused hardship to the respondent and for which the revision petitioner is liable to pay costs. Hence, it is impressed on the trial Court that it need not give any more adjournments on the request of filing petitions for recalling witnesses, in view of the amendment now sought for.

8. Taking into consideration of the submissions of the learned counsel for the revision petitioner, I feel that allowing the amendment petition on terms will not in any way cause delay to the proceedings.

9. In the result, this Civil Revision Petition is allowed. The order dated 04.03.2021 passed by the learned Judge, Family Court, Villupuram, in I.A.No.1 of 2020 in O.S.No.2 of 2017 is set aside and the petition in I.A.No.1 of 2020 is allowed on payment of costs of Rs.3,000/- [Rupees Three Hundred only] to the respondent/defendant within a period of one week from the date of receipt of a copy of this order, failing which



WEB COPY

the petition will stand automatically dismissed. Immediately after the amendment is carried out and amended plaint filed the revision petitioner shall submit his additional arguments if any and co-operate with the Court for early disposal. Since the matter has already reached the stage of judgment and the further scope is only to receive any additional arguments, the learned trial Judge is impressed to dispose the suit as expeditiously as possible. Consequently, connected Miscellaneous Petition is closed. No costs.

12.07.2022

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

Note : Issue Order Copy by Today

sri

To

The Judge, Family Court, Villupuram.

6/7



WEB COPY

C.R.P. (PD) No.1611 of 2022
and C.M.P. No.8068 of 2022



R.N.MANJULA, J.

sri

C.R.P. (PD) No.1611 of 2022
and C.M.P. No.8068 of 2022

12.07.2022