



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:16.03.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (PD) (MD) .No.590 of 2018

Balachitra ... Petitioner/Petitioner/Petitioner/

vs.

Kumaran ... Respondent/Respondent/Respondent/

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 08.02.2018 passed in I.A.No.7 of 2018 in H.M.O.P.No.66 of 2015 on the file of Subordinate Judge, Virudhunagar.

For Petitioner	: Mr.P.Kaathan Rajkumar
For Respondent	: No appearance

O R D E R

The Civil Revision Petition has been filed challenging the order passed by the learned Subordinate Judge, Virudhunagar in I.A.No.7 of 2018 in H.M.O.P.No.66 of 2015, dated 08.02.2018.

2. The above I.A.No.7 of 2018 was filed by the revision petitioner under Order 6 Rule 17 of C.P.C., for amendment of the prayer in H.M.O.P.No.66 of 2015. The petitioner is the wife and the respondent is the husband. The petitioner/wife has filed the H.M.O.P.No.66 of 2015 before the Subordinate Court, Virudhunagar for divorce and in the said H.M.O.P., she wants to amend the prayer by adding the relief of declaration that the marriage is null and void.

3. According to the petitioner, she was only 14 years at the time of her marriage with the respondent. Therefore, this marriage is null and void. Further, the petitioner stated that there is a specific averment in para-5 of the petition in H.M.O.P.No.66 of 2015, wherein she has stated that her marriage was solemnised with the respondent at the age of 14 years. However, the Court below dismissed the application stating that the age of the petitioner at the time of marriage was not pleaded in the H.M.O.P. and the provision of law was quoted wrongly. Therefore, the Court below without considering this aspect, dismissed the H.M.O.P. as if the petitioner was not pleaded that her age at the time of marriage as 14. Therefore, the petitioner stated that the order passed by the Court below is liable to be set aside and the petitioner may be



permitted to make appropriate amendment as prayed in H.M.O.P.No.66 of 2015.

4. Though notice was served to the sole respondent and his name also printed in the cause list, when the matter is called today, none appeared for the respondent.

5. Upon hearing the learned counsel for the petitioner and on perusal of the documents, the only issue to be decided in this matter is whether the prayer sought by the petitioner to amend the prayer in H.M.O.P.No.66 of 2015 can be allowed or not. The I.A.No.7 of 2018 was dismissed only on the ground that the petitioner has not pleaded her age at the time of marriage as 14 and for quoting the wrong provision of law. Upon perusal of para-7 of the H.M.O.P.No.66 of 2015, it is clear that the petitioner has stated that at the time of marriage she was only 14 years. The Court below has stated that the provision of law stated by the petitioner are totally contradictory under which reliefs can never be granted.

6. All these things are matter for trial and it is not that as concluded by the Court below and the petitioner has not pleaded her age at the time of marriage as 14, but she has stated the same in the petition as 14 at the time of marriage. With regard to provision of law in the petition, in the event, if at all the provision of law quoted by the petitioner is wrong, the Court below can very well substitute the correct provision of law and grant relief. Hence, this Court is of the view that the rejection of the amendment petition by the Court below is not sustainable and the same is liable to be dismissed. Accordingly, the order passed by the Court below in I.A.No.7 of 2018 in H.M.O.P.No.66 of 2015, dated 08.02.2018 is set aside and the Civil Revision Petition is allowed and the petitioner is permitted to make suitable amendment in H.M.O.P.No.66 of 2015, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

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To
The Subordinate Judge,
Virudhunagar.

C.R.P. (PD) (MD) .No.590 of 2018
16.03.2022

MGJ(01.04.2022) 2P 2C

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