



C.R.P. No. 3039 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.08.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 3039 of 2023

and

C.M.P.No.18830 of 2023

Ravi

...Petitioner

.Vs.

Mr.Praveen Kumar (Minor)

Represented by his mother and Natural Guardian

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order passed by the learned Additional District Munsif Cheyyar Thiruvannamalai District in I.A.No.3 of 2023 in O.S.No.25 of 2015 dated 17.07.2022 and pass orders.

For Petitioner : Mr. V. R. Appaswamee



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ORDER

This petition is filed to set aside the order passed by the learned Additional District Munsif Cheyyar Thiruvannamalai District in I.A.No.3 of 2023 in O.S.No.25 of 2015 dated 17.07.2022

2. The facts of the case is that the petitioner herein had an illegal affair with the mother of the respondent, due to which the mother of the petitioner became pregnant and gave birth to a child, who is the the respondent herein. Hence the respondent filed a suit in O.S.No.25 of 2015 seeking to declare him as a biological son of the petitioner herein. Thereafter, this Court by an order dated 10.02.2014 in Crl.A.No. 37 of 2013 directed the petitioner herein to undergo DNA test. Subsequently the petitioner has undergone the DNA test and the report was sent through the Forensic Department on 26.09.2018. Hence, the respondent herein filed I.A.No.3 of 2023 in O.S.No.25 of 2015 under order 16 Rule 21 for seeking permission to bring the Forensic Science Director as witness in the above suit and the same was allowed vide order dated 17.07.2023. Aggrieved over the same, the petition has come up with this petition.



3. The learned counsel for the petitioner submitted that the respondent has filed the above suit on imaginary and concocted allegations and they are trying to protract the proceedings by filing irrelevant interim applications. He further submitted that the DNA report is not a valid document and marking the same is unnecessary. He further submitted that the learned Judge without considering the plea of the petitioner has erroneously allowed the I.A. Hence he prays to allow this petition.

4. On a perusal of the impugned order, it is seen that the respondent herein has sought permission to bring the Forensic Science Director as a witness to substantiate his contention in the suit that he is a biological son of the petitioner herein and the same was allowed vide order dated 17.07.2023. Hence, the impugned order does not cause prejudice to the respondent and it does not affect the case of the respondent in any manner. Further more, it is a settled principle that the burden of proof lies on the petitioner or plaintiff as the case may be. Any one who wants a Court to rule on a legal right or responsibility based on facts, he must first show that such facts exists instead in the present case, the petitioner is attempting to strike out the evidence of the respondent which is not correct.

5. In view of the above, the order passed in I.A.No.3 of 2023 in



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O.S.No.25 of 2015 on 17.07.2022 by the Additional District Munsif Cheyyar Thiruvannamalai District is confirmed. Accordingly this Civil Revision Petition is dismissed. No order as to costs. Consequently, the connected miscellaneous petition is closed. However, the learned Judge Additional District Munsif Cheyyar Thiruvannamalai District is directed to proceed further in the suit.

28.08.2023

smn

Index : Yes/No

Internet: Yes/No

To.

The Additional District Munsif Cheyyar Thiruvannamalai District.



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V.BHAVANI SUBBAROYAN,J.
Smn

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