



C.R.P.No.3666 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3666 of 2023

and

C.M.P.No.22987 of 2023

Vetrivel Thiagarajan

... Petitioner

-Vs-

Sarala Jaganathan

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike off the petition in H.M.O.P.No.5687 of 2022 on the file of the learned V Addl. Family Court, Chennai.

For Petitioner : Mr.S.L.Sharukumar

ORDER

The Revision Petitioner is the husband of respondent and against whom, the respondent filed a petition in H.M.O.P.No.5687 of 2022 for restitution of conjugal rights and the same is pending before the Family Court, Chennai. Before that, the Revision Petitioner filed a petition for divorce before the General Court of Justice, State of North Carolina, U.S.A.



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against the respondent, since because both were citizens of U.S.A. In that case, notice was served on her and a preliminary decree was passed, but not a final order of divorce granted. After filing of the said proceedings, in the year of 2022, the respondent filed a petition for restitution of conjugal rights before the Family Court, Chennai, since their marriage was solemnised on 31.10.2008 at Aishwarya Mahal, at Sowbakya Hall, Nungambakkam, Chennai.

2. Now, the learned counsel for Revision Petitioner would submit that having evaded the proceedings before the General Court of Justice, U.S.A., but suppressing the earlier divorce proceedings initiated by the husband, she filed the present petition, as such is clear abuse of process of law and the same is liable to be strike off. Further, he would also submit that she has not given correct address, because address found in the petition is not correct, however, when he tried to serve notice on the respondent, she had been tactfully evading the notice. Hence, he prayed to strike off the petition filed by the respondent.

3. Admittedly, notice was returned unserved as per the report given by the Principal District Judge, Tiruvallur. But on seeing the records, the respondent wife filed a petition by invoking Sec.9 of Hindu Marriage Act.



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A statutory remedy was given to her for restitution of conjugal rights, but the same cannot be deemed as abuse of process of law. Therefore, the reasons assigned by the Revision Petitioner is not acceptable one. So, he is entitled to serve notice on the respondent wife in a proper manner as per manner known to law. Hence, the reasons assigned by him to strike off H.M.O.P. is not acceptable one. Therefore, I do not find any reason in this Civil Revision Petition. However, liberty is granted to the Revision Petitioner to serve notice to the respondent wife in all sort of mode as per manner known to law and he is also permitted to appear for the court hearings through video conference. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No

Speaking Order : Yes/No

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To

The IV Additional Family Court, Chennai.



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T.V.THAMILSELVI, J.

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