



C.R.P.No.4385 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2023

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THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4385 of 2022

Dr.J.Remabarathi

... Petitioner

Vs.

Dr.C.Amarnath

... Respondent

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, set aside the order dated 29.10.2022 passed in I.A.No.03 of 2022 in O.P.No.3564 of 2019 on the file of the IV Additional Family Court, Chennai.

For Petitioner : Mr.C.Subash
(change of Vakalat given)

For Respondent : Mr.T.Gowthaman



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ORDER

The Civil Revision Petition is filed challenging the order dated 29.10.2022, passed in I.A.No.3 of 2022, in O.P. No.3564 of 2019. The petitioner is the respondent in O.P. No.3564 of 2019 filed by the respondent for dissolution of marriage.

2. The revision petitioner has already filed a counter statement in O.P. and the case was posted for trial. When the case was posted for summary trial, again the petitioner filed an additional counter statement containing 23 pages.

3. The petitioner states that certain facts which were left out are stated in the additional counter statement and thus, the Trial Court ought to have accepted the additional counter affidavit filed by the revision petitioner.

4. The learned counsel for the respondent objected to the said contention by stating that the original counter statement is filed containing



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29 pages and the revision petitioner has elaborately stated her defence in the said counter affidavit already filed. Again she filed an additional counter affidavit containing 23 pages, unconnected with the issues raised in the divorce petition. The Trial Court found that the contentions in the additional counter affidavit proposed to be filed by the revision petitioner are unconnected with the issues already framed for trial and thus, the Trial Court is right in rejecting the Interlocutory Application filed by the revision petitioner for accepting the additional counter affidavit.

5. The findings of the Trial Court reveal that the petitioner had already filed her counter statement containing of 29 pages. The petitioner has elaborately set out her grounds in the said counter statement and the case is pending from the year 2019 onwards. While so, the Trial Court formed an opinion that such additional counter statement is filed in order to drag the proceedings and perusal of the counter affidavit reveals that the contentions are unnecessary to deal with the issues raised between the parties in the application. Under those circumstances, the Trial Court dismissed the Interlocutory Application.



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6.Any attempt of the parties to frustrate the proceedings at no circumstances be encouraged by the Courts. Parties are entitled to file their affidavits, statements, documents, etc., as per the provisions of the Act. However, if the parties made any attempt to prolong and protract the issues or to frustrate the proceedings by filing unnecessary documents and affidavits, then the Trial Court is empowered to examine the said documents, affidavits, or otherwise and accept or rejected the same as the case may be.

7.In the present case, the Trial Court found that the respondent has already filed her detailed counter containing 29 pages stating all her defences. Thus, the additional counter statement filed during the commencement of the trial becomes unnecessary and the Court is of the opinion that such additional counter statements are filed in order to prolong the application filed by the respondents, and therefore, this Court is not inclined to interfere with the order passed in the Interlocutory Application.



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8. Accordingly, the order dated 29.10.2022, passed in I.A.No.3 of 2022, in O.P. No.3564 of 2019, stands confirmed and consequently the Civil Revision Petition stands **dismissed**. However, there shall be no order as to costs.

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06.01.2023

Index: Yes
Internet: Yes
Speaking Order

To

1. IV Additional Family Court, Chennai.



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S.M.SUBRAMANIAM.J.,

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