



C.R.P.(PD)No.3879 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.3879 of 2019

and

C.M.P.Nos.5020 of 2020 & 25604 of 2019

K.V.Nithyaprabha

.. Petitioner

Vs.

S.Arul Kumar

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order, dated 05.07.2019, made in I.A.No.1975 of 2018 in O.P.No.940 of 2018 on the file of the IV Additional Family Court, Chennai.

For Petitioner : M/s.D.Lakshmipathy

For Respondent : Ms.M.Saral for M/s.V.Pushkala



C.R.P.(PD)No.3879 of 2019

WEB COPY

3. Pending the proceeding, the petitioner filed I.A.No.83 of 2015 to implead Koteeswaran as a party respondent to the proceeding. The said proceeding ended in favour of the respondent. Challenging the same, CRP(PD)No.3192 of 2016 was filed. When the revision came up for final disposal, the petitioner withdrew I.A.No.83 of 2015 and sought for liberty. The I.A. was dismissed as withdrawn with liberty to file an appropriate petition. Thereafter, the petitioner presented I.A.No.11 of 2016 with two prayers. The first prayer being to include the provision relating to adultery in the divorce petition namely, Section 13(1)(i) of the Hindu Marriage Act, 1955. Apart from that, he wanted to add a separate paragraph as paragraph No.15a. This was opposed by the respondent, but it came to be allowed. Against which, the present civil revision petition has been filed.

4. Heard Mr.D.Lakshmipathy, learned counsel appearing for the petitioner and Ms.Saral, learned counsel for Ms.V.Pushkala, learned counsel appearing for the respondent.



C.R.P.(PD)No.3879 of 2019

WEB COPY

5.Both sides would agree that when the amendment application was filed, evidence had already been recorded on the merits of the case and it was posted for arguments on the side of the petitioner.

6.Once the parties have gone to trial on averments already made, to bring in fresh allegations by way of an amendment would cause prejudice to other side. Since there are allegations that the petitioner had relationship with one Mr.Selva Ramesh as well as Mr.Koteeswaran in the original application itself, the first part of the prayer alone is allowed. The petitioner is permitted to correct the provision of law from Section 13(1)(i)(a) to Section 13(1)(i)(a) r/w Section 13(1)(i) of the Hindu Marriage Act, 1955. Insofar as the second prayer is concerned, where the petitioner wanted to include fresh averments, the petition will stand dismissed. It is made clear that the parties will not be permitted to let in fresh evidence as the amendment only relates to correction of provision of law.



C.R.P.(PD)No.3879 of 2019

WEB COPY

7.This civil revision petition is partly allowed. I.A.No.11 of 2017 subsequently re-numbered as I.A.No.1975 of 2018 is allowed insofar as the correction of provision of law alone is concerned. Insofar as the remaining portion, the I.A. will stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

08.09.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

MKN 2/VS

To

The IV Additional Family Court,
Chennai.

5/6



WEB COPY



C.R.P.(PD)No.3879 of 2019

V.LAKSHMINARAYANAN,J.

VS/MKN 2

C.R.P.(PD)No.3879 of 2019
and
C.M.P.Nos.5020 of 2020 & 25604 of 2019

08.09.2023