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C.R.P(MD).No.659 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.659 of 2023

and

CMP(MD)No.3071 of 2023

K.Balasubramanian

... Petitioner/Petitioner/Defendant

Vs.

Thangaselvi

... Respondent/Respondent/Plaintiff

PRAYER:- This Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 23.09.2022 made in I.A.No.13 of 2022 and in O.S.No.45 of 2014 on the file of Additional District Munsif Court, Arupukottai, by allowing the Civil Revision Petition.

For petitioner : Mr.C.Christopher

ORDER

This petition has been filed to set aside the fair and decreetal order made in I.A.No.13 of 2022 and in O.S.No.45 of 2014 on the file of Additional District Munsif Court, Arupukottai, dated 23.09.2022.

2.The petitioner is the defendant in O.S.No.45 of 2014 filed by the respondent for maintenance before the Additional District Munsif Court, Arupukottai.



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3. In the said proceeding, the petitioner had filed I.A.No.13 of 2022 against the fair and decreetal order dated 23.09.2022. The aforesaid application was filed by him under Order XVI Rule 2 & 5 of CPC to send for documents namely, the Ration Card and the House Tax Receipts and to summon the Government Officials to give evidence before the Court.

4. It is the specific case of the petitioner that in the written statement filed in O.S.No.45 of 2014, the petitioner has specifically stated that he had filed HMOP.No.57 of 2008 before the Sub Court, Arupukkottai, for divorce. The respondent remained *ex-parte* before the said Court and therefore, the *ex-parte* decree was granted and the marriage between the petitioner and the respondent was dissolved on 24.10.2008. It is submitted that the respondent has also filed I.A.No.88 of 2012 against the said *ex-parte* order dated 24.10.2008. During the pendency of the said Interlocutory Application, the dispute between the petitioner and the respondent was settled out of court and the respondent agreed to receive a sum of Rs.5 lakhs as one time settlement. Hence, on 20.07.2012, the said application was withdrawn by the respondent. It is submitted that suppressing the above fact, O.S.No.45 of 2014 was filed by the respondent by placing reliance on the document issued by the officials namely, the Ration Card and the House Tax Receipts to claim



maintenance from the petitioner even though the marriage between the petitioner and the respondent stood dissolved, pursuant to the *ex-parte* decree passed on 24.10.2008 in HMOP.No.57 of 2008. It is submitted that the Trial Court has committed error in rejecting the application filed for sending the document to ascertain the genuinity of the documents and to summon the officials to give evidence before the Court. The respondent has filed the said suit for maintenance on the ground that the marriage between the petitioner and the respondent is subsisting.

5.I have considered the arguments. The case of the petitioner is that marriage stood dissolved by an *ex-parte* judgment and decree dated 24.10.2008. If it is the case of the petitioner that the document namely, Ration Card and the other documents were issued without his knowledge, it is open for the petitioner to argue the case on the strength of *ex-parte* decree granted by the Court in HMOP.No.57 of 2008. There is no necessity to summon the officials to give evidence before the Court.

6.In any event, it is open for the petitioner to challenge the Ration Card and the House Tax Receipts giving the details that the respondent as the wife of the petitioner in the manner known to law. There is no merits in the present



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civil revision petition. In my view, no prejudice will be caused to the petitioner. The request of the petitioner has been rightly turned down by the learned Additional District Munsif Court, Arupukottai, vide the impugned fair and decreetal order dated 23.09.2022.

7.Considering the fact that Original Suit is of the year 2014, there shall be a direction to the learned Additional District Munsif Court, Arupukottai, to dispose the suit in O.S.No.45 of 2014 as expeditiously as possibly preferably within a period of 9 months from today.

8.Considering the same, this Civil Revision Petition stands dismissed.
No costs. Consequently, the connected miscellaneous petition is closed.

13.03.2023

NCC : Yes/No
Index : Yes/No
Internet:Yes/No
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To

- 1.The Additional District Munsif Court,
Arupukottai.
- 2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

dss

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