



C.R.P(MD)No.806 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.04.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.806 of 2021

and

C.M.P(MD)No.4355 of 2021

Ashifa

...Petitioner/Defendant

Vs.

Azarudeen

...Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.11 of 2021 pending on the file of the Family Court, Madurai.

For Petitioner : Mr.Babu Rajendran

For Respondent : Mr.C.Jeganathan

ORDER

The present Civil Revision Petition has been filed to strike off the plaint in O.S.No.11 of 2021 pending on the file of the Family Court, Madurai.



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2. The petitioner is the defendant in O.S.No.11 of 2021 filed by the respondent to declare the marriage solemnised between the petitioner and the respondent was dissolved on 09.01.2021. The marriage between the petitioner and the respondent was solemnised in accordance with the Muslim law on 23.08.2015.

3. A reading of the grounds indicate that whether there is a substantial ground made out for striking off the plaint under Article 227 of the Constitution of India unless the plaint itself has been instituted with a view to abuse the Court proceedings. The question of striking off the plaint without enquiry cannot be countenanced. The petitioner has an option under Order 7 Rule 11 of C.P.C. to reject the plaint, if the suit instituted by the respondent to dissolve the marriage between the petitioner and the respondent in O.S.No.111 of 2021 was liable to be struck off on account of any of the grounds specified under Order 7 Rule 11 of C.P.C. The petitioner also has an option under Order VI Rule 16 of C.P.C. to strike off the plaint. By passing these remedies, the petitioner cannot file this civil revision petition under Article 227 of the Constitution of India.



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4. The present Civil Revision Petition is liable to be dismissed. It stands dismissed with the above observations. However, liberty is given to the petitioner to file appropriate application before the Trial Court under Order 7 Rule 11 of C.P.C., or under Order VI Rule 16 of C.P.C., to facilitate the same within a period of one month from the date of receipt of copy of this order. If such application is/are filed, the Trial Court shall dispose of the same as expeditiously as possible preferably within a period of 3 months thereafter. No costs. Consequently, connected miscellaneous petition is closed.

21.04.2023

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

- 1.The Family Court, Madurai,
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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