



C.R.P.(MD)No.2537 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2537 of 2023

Kumaresan

... Petitioner/
Petitioner/
Petitioner

Vs.

Gandhimathi @ Praveena
(since the respondent is not mentally fit, she is
represented by her father and curator Selvam)

... Respondent/
Respondent/
Respondent

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 08.02.2023 passed in I.A.No.1 of 2020 in Unnumbered H.M.O.P.(S.R.)No.2379 of 2020 13.08.2022 on the file of the Sub Court, Aruppukkottai and consequently direct the learned Subordinate Judge, Aruppukkottai to number the original suit.

For Petitioner : Mr.V.Sasikumar



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ORDER

The Civil Revision Petition is directed against the order passed in I.A.No.1 of 2020 in Unnumbered H.M.O.P.(S.R.)No.2379 of 2020 dated 08.02.2023 on the file of the Subordinate Court, Aruppukkottai, dismissing the petition filed under Order 32 Rule 15 C.P.C.

2. The revision petitioner has filed a HMOP seeking orders to set aside the voidable marriage allegedly solemnized between the revision petitioner and the respondent on 15.11.2019.

3. The revision petitioner's main contention is that the respondent was a mentally challenged person and by suppressing the above material aspects, the respondent was given marriage to the revision petitioner and that is why, he was constrained to file the above application.

4. The learned counsel appearing for the revision petitioner would submit that the revision petitioner has filed the HMOP against the respondent represented by her father as she was not mentally alright and he already filed an application in I.A.No.1 of 2020 under Order 32 Rule 15



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C.P.C. seeking permission of the Court to send summons to the father of the respondent to defend the above proceedings. The respondent's father has filed a counter statement raising serious objections. The learned Subordinate Judge, after enquiring the respondent in person in two days, has recorded his satisfaction that the respondent was mentally alright and that the revision petitioner has not produced any iota of evidence to prove the mental ill health of the respondent, dismissed the petition.

5. In the absence of any medical evidence and taking note of the satisfaction recorded by the learned Subordinate Judge that the respondent is mentally alright, this Court is not inclined to interfere with the order passed in I.A.No.1 of 2020 dated 08.02.2023 by the learned Subordinate Judge.

6. At this juncture, the learned counsel appearing for the revision petitioner would submit that after the dismissal of the petition in I.A.No.1 of 2020, the learned Subordinate Judge has returned the main HMOP and hence, the revision petitioner may be permitted to re-present the main petition after making necessary amendments in the cause title.



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7. Recording the above submission made by the learned counsel appearing for the revision petitioner, the revision petitioner is directed to re-present the main petition by making his wife as the only respondent by amending the cause title and on such re-presentation, the learned Subordinate Judge, Aruppukkottai, is directed to take the petition on file, if it is otherwise in order. The revision petitioner is at liberty to raise the plea now raised at the trial.

8. In the result, this Civil Revision Petition is dismissed. No costs.

10.10.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Subordinate Court,
Aruppukkottai.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Order made in
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Dated : 10.10.2023