



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P. (MD) No.2168 of 2022

and

C.M.P. (MD) No.10054 of 2022

B.M.Gopi Krishna ... Petitioner / Petitioner / Respondent

Vs.

Deepika mai ... Respondent / Respondent / Petitioner

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Judgment and Decree passed in I.A.No.102 of 2022 in H.M.O.P.No.836 of 2021 dated 02.09.2022 on the file of the Family Court, Madurai.

For Petitioner : M/s.K.R.Shivashankari

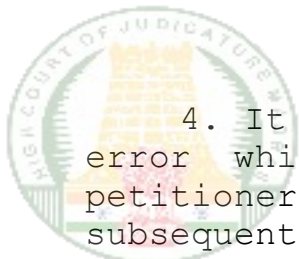
For Respondent : Mr.R.Gowrishankar

O R D E R

This Civil Revision Petition has been filed to set aside the Judgment and Decree dated 02.09.2022 passed by the Family Court, Madurai in I.A.No.102 of 2022 in H.M.O.P.No.836 of 2021.

2. By the impugned order dated 02.09.2022, the Family Court, Madurai has dismissed I.A.No.102 of 2022 filed by the petitioner. I.A.No.102 of 2022 was filed by the petitioner under Section 11 of Code of Civil Procedure, 1908 to dismiss H.M.O.P.No.836 of 2021. H.M.O.P.No.836 of 2021 was filed by the respondent under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 to dissolve the marriage solemnized on 12.12.2013 between the petitioner and the respondent, on the ground of cruelty.

3. The learned counsel for the petitioner submits that the marriage that was solemnized between the petitioner and the respondent on 12.12.2013 had already been declared as a nullity vide fair and decreetal order dated 21.05.2014 passed in H.M.O.P.No.90 of 2014 filed by the petitioner under Section 12(1) (a) of the Hindu Marriage Act, 1955.



4. It is submitted that the Family Court has committed an error while dismissing the I.A.No.102 of 2022 filed by the petitioner under Section 11 of the Code of Civil Procedure as the subsequent H.M.O.P.No.836 of 2021 filed by the respondent was clearly barred under law.

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5. Per contra, the learned counsel for the respondent submits that the petitioner has obtained the Decree in H.M.O.P.No.90 of 2014 by misleading the facts and that even though after the Decree that came to be passed on 21.05.2014 in H.M.O.P.No.90 of 2014, the petitioner took the respondent to U.S., lived with the respondent and introduced her to the society and his friends as his wife. It is submitted that therefore, the respondent is independently entitled to initiate a proceedings to dissolve the marriage solemnized between the petitioner and the respondent on 12.12.2013.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent.

7. H.M.O.P.No.836 of 2021 filed by the respondent under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 to dissolve the marriage solemnized between the petitioner and the respondent on 12.12.2013 cannot be countenanced in the light of the earlier Decree passed on 21.05.2014 in H.M.O.P.No.90 of 2014. The decision of the Family Court is therefore unsustainable. It is liable to be interfered with. Therefore, the impugned order dated 02.09.2022 in I.A.No.102 of 2022 in H.M.O.P.No.836 of 2021 is set aside. Consequently, I.A.No.102 of 2022 filed under Section 11 of the Code of Civil Procedure, 1908 deserves to be allowed.

8. The observations contained in this order shall be without prejudice to the rights of the respondent to exercise rights, if any, out the alleged declaration made by the petitioner before the officials and statutory bodies in India and abroad.

9. This present Civil Revision Petition is accordingly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AE)

// True Copy //

/07/2023

Sub Assistant Registrar(CS)



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To

The Judge, Family Court, Madurai.

COPY TO:

THE SECTION OFFICER,

VR SECTION, MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (2 Copies)

+1 CC to M/s.R.GOWRI SHANKAR, Advocate (SR-26113[F] dated
05/06/2023)

+1 CC to M/s.K.R.SHIVA SHANKARI, Advocate (SR-26360[F] dated
06/06/2023)

C.R.P.(MD) No.2168 of 2022
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