



CRP Nos.194 and 195 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.194 of 2024 and
CMP No.898 of 2024
and
CRP No.195 of 2024 and
CMP No.899 of 2024

S.Menaka

... Petitioner

Vs.

K.S.K.Nepolian Socraties
...Respondent

PRAYER n CRP No.194/2024: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 15.11.2023, passed in I.A.No.9 of 2023 in O.P.No.4812 of 2019 on the file of the V Additional Principal Family Court, Chennai.

PRAYER n CRP No.195/2024: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 15.11.2023, passed in I.A.No.8 of 2023 in O.P.No.4812 of 2019 on



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the file of the V Additional Principal Family Court, Chennai.

For Petitioner : Mr.G.Mohana Krishnan
For Respondent/ : Mr.R.Marudhachalamurthy

ORDER

The Civil Revision Petitions have been filed to set aside the fair and decreetal order dated 15.11.2023, passed in I.A.No.8 and 9 of 2023 in O.P.No.4812 of 2019 on the file of the V Additional Principal Family Court, Chennai.

2. The brief facts leading to the filing of Civil Revision petition is as follows:

The respondent herein had filed O.P.No.4812/2019 seeking dissolve the marriage solemnized on 01.12.2017 between him and the petitioner herein, in which the maintenance petition in I.A.No.4/2021 filed by the petitioner herein was ordered, against which, the respondent herein has filed CMA No.1914/2021 before this Court. In the above CMA, stay was ordered on condition to pay a sum of Rs.3,50,000/- in CMP No.5592/2002. In such



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circumstances, the petitioner herein had filed I.A.No.8, 9, 10/2023 in O.P.No.4812/2019 by the petitioner herein to re-open and re-call the evidence of RW1 and permit her to mark additional documents. The above petitions were ordered on 15.11.2023 by the learned Trial Judge stating that the same will be decided only after disposal of the CMP No.5592/2022 in CMA No.1914/2021 by this Court. As against the above order, the present civil revision petition has been filed.

3. The learned counsel for the petitioner submitted that, already, CRP No.4565/2023 was filed to set aside the order passed in I.A.No.10/2023 in O.P.No.4812/2019, dated 15.11.2023 and the same was allowed by this Court on 05.12.2023. Therefore, the present revision petitions also to be allowed for marking additional documents on the side of the petitioner as RW1, by reopening her evidence.

4. The learned counsel appearing for the respondent has strongly objected to allow the revision petition by contending that the earlier order in



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CRP No.4565/2023 was passed, without hearing the respondent herein.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

6. It is an admitted fact that the petitioner herein is the wife of the respondent herein and the respondent has filed the above O.P.No. 4812/2019, seeking divorce. In the above petition, maintenance was ordered in I.A.No.4/2021; against which CMA1914/2021 was filed; and in the above the CMA, stay was granted in CMP No.5592/2022. Subsequently, the petitioner herein has filed three applications in I.A.No.8,9&10/2023 in the above O.P.No.4812/2019, seeking following prayers:

- i) I.A.No.8/2023- Under Order VII Rule 1A(3) of CPC to reopen the evidence of the petitioner as RW1 to file the additional documents in O.P.No.4812/2023.
- ii) I.A.No.9/2023- Under Order XVIII Rule 17 of CPC to call and permit the petitioner to file the additional documents in O.P.No.4812/2023.
- iii) I.A.No.10/2023- Under Section 151 of CPC to reopen the evidence of the petitioner as RW and to permit the petitioner to file the additional documents in O.P.No.4812/2023.



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in Inview of the stay granted by this Court in CMP No.5592/2022 in CMA No.1914/2021, the learned trial Judge has observed that the above I.A.No.8,9,10/2023 will be decided, after the disposal of above CMP and posted the matter on 21.11.2023.

7. It is to be noted that, after the common order passed in I.A.Nos.8, 9 and 10/2023, dated 15.11.2023, the petitioner herein has filed CRP No.4565/2023 before this Court seeking to set aside the order passed in I.A.No.10/2023 alone, without seeking to set aside the common order passed in all the applications. The above civil revision petition was allowed by this Court on 05.12.2023 by observing as follows:

" This court is of the view that the Trial Court failed to appreciate the fact that this Court stayed the proceedings only in I.A.No.4/2021 in O.P.No.4812/2019, not for the entire proceedings in O.P.No.4812/2019. More over, recording evidence of RW1 is totally independent proceedings. Hence, the order passed by the Trial Court in I.A.No.10/2023 in O.P.No.4812/2019 is set aside. I.A.No.10/2023 in O.P.No.4812/2019 is allowed."



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In such circumstances, the present civil revision petitions have been filed to set aside the order passed in I.A.No.8 and 9 of 2023 in O.P.No.4812/2019, dated 15.11.2023.

8. In the earlier order, dated 05.12.2023 in CRP No.4565/2023, the order passed in I.A.No.10/2023, dated 15.11.2023 was set aside. Though this Court, vide order dated 05.12.2023 has permitted the petitioner to file additional documents in O.P.No.4812/2019, it implies that the evidence of the petitioner as RW1 has to be reopened and the RW1 (petitioner) has to be re-called for marking additional documents. Further, without reopening the evidence and recalling the petitioner as RW1, the additional documents sought to be marked in I.A.No.10/2023, cannot be marked. Therefore, there is no necessity to file the present civil revision petitions to allow the applications in I.A.No.8 & 9/2023 and the order passed in CRP No.4565/2023, dated 05.12.2023 itself is enough to reopen and recall the evidence of RW1 (petitioner) to file the additional documents.



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9. Accordingly, the present CRP Nos.194 and 195 of 2024 are dismissed, as it is not necessary and the earlier order passed in CRP No.4565/2023, dated 05.12.2023 itself is implied to reopen and recall the evidence of RW1 (petitioner) to file additional documents. No costs. Consequently, connected miscellaneous petitions are closed. The Trial Court is directed to implement the order passed in CRP No.4565/2023, dated 05.12.2023.

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Index: Yes/No
Internet: Yes/No
mst

To

The V Additional Principal Judge,
Family Court, Chennai.



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V.SIVAGNANAM, J.,

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