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C.R.P.(PD)No.800 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

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THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.800 of 2023

and

C.M.P.No.6112 of 2023

Mahalingam

.. Petitioner

Vs.

Thenmozhi Priya

.. Respondent

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the records pertaining to the fair and decreetal order, dated 30.09.2022, passed in I.A.No.1 of 2022 in O.P.No.52 of 2022 on the file of the learned III Additional Principal Family Judge at Chennai and set aside the same.

For Petitioner : Mr.M.Arun

For Respondent : Ms.P.Srividhya

ORDER

The present Civil Revision Petition arises against an order passed by the learned III Additional Principal Family Judge at Chennai in I.A.No.1 of 2022 in O.P.No.52 of 2022 dated 30.09.2022.



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2. There is no dispute in the relationship between the parties.

3. The civil revision petitioner is the husband and the respondent is the wife. Their marriage was solemnized on 21.02.2001 at Chennai. From the wedlock, a male child was born on 07.03.2022. Alleging that the petitioner faced cruelty and desertion, he filed a petition in H.M.O.P.No.248 of 2018 on the file of the Family Court at Karur. The said proceeding was transferred and renumbered as O.P.No.3468 of 2018 on the file of the learned III Additional Principal Family Judge at Chennai. The said transfer occurred pursuant to the orders of this Court in Tr.C.M.P.No.371 of 2018.

4. O.P.No.3468 of 2018 was withdrawn as the parties wanted to file an application for mutual consent. That petition did not fructify, according to the civil revision petitioner, since the respondent refused to grant consent for divorce. Hence, being left with no other option, the civil revision petitioner filed a fresh petition in O.P.No.52 of 2022 seeking divorce on the ground of desertion alone.

5. On being served with the summons, the respondent/wife took out



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an application seeking direction that the husband must present himself before the Board of Psychiatrist for psychiatric evaluation. This application was received as I.A.No.1 of 2022.

6. The allegation of the respondent/wife is that the petitioner is suffering from delusion on account of Schizophrenia, and had been taking treatment for the same from a Psychiatrist in Chennai, namely Dr.Thirunavukarasu M.D. I need not go into the details of the allegation for the purpose of disposal of the revision other than stating the specific allegation of the wife which is pertinent to this issue. She wants the husband to be treated for Schizophrenia, which according to her, though long term will bear fruits within a decade.

7. The civil revision petitioner was served with the petition, and he filed a counter stating that he is not suffering from any illness. He would take a stand that it was at the instance of the wife he took treatment from Dr.Thirunavukarasu M.D, and the said Doctor had given malmedication, and that itself cannot be a ground to refer him to a Medical Board. He would allege that the respondent herein, who is a Medical Doctor herself, had not



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treated him properly, and she had filed the petition only as a ruse to drag on the matter.

8. After hearing both sides, the learned trial Judge came to the conclusion that without receiving a report from the authority, namely the panel of Psychiatrists, she cannot decide on the petition. Consequently, she directed the medical examination of the respondent/husband to be conducted by the Board of experts to be formed by the Dean, Kilpauk Medical College and Hospital, Kilpauk. Against which, the present revision has been presented before this Court.

9. Heard Mr.M.Arun, appearing on behalf of the civil revision petitioner and Ms.P.Srividhya, appearing on behalf of the respondent.

10. The main divorce petition has been filed on the ground of desertion by the wife. The factum that the husband and the wife have separated is not in controversy. If the husband is able to prove that the wife is staying away without a reasonable cause and other circumstances that he has pleaded in the petition, he would be entitled to a decree. On the contrary,



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if the wife is able to prove that she has a reasonable cause for staying away from the husband, which could possibly include the allegations of delusion, the wife cannot be found to be at fault. As rightly pointed out by the learned trial Judge, these are matters which have to be dealt with at the time of trial.

11. The point remains that the civil revision petitioner has admitted to the fact that he was taking treatment from one Dr.Thirunavukarasu M.D, who is an expert in Psychiatry. Normally, if a person is feeling sick, he is going to take treatment from the general practitioner or a specialist in the field that the ailments relates to. The treatment from a Psychiatrist pre-supposes that the person is suffering from some illness which requires this specialized course of treatment.

12. As pointed out by Mr.M.Arun, it is possible that he could have been wrongly diagnosed for delusion caused by Schizophrenia, which was treated by the said doctor. Whether he had been wrongly diagnosed and treated or whether he is actually suffering from the said affliction can only be gone into by a Medical Board. It is in that light, the learned Judge had ordered the application. Therefore, I do not find any error in the order



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directing the civil revision petitioner to appear before the Medical Board.

After taking notice that the respondent/wife is also in Government service, who is currently working in Stanley Medical College and Hospital at Chennai, while dismissing the revision confirming the order of the learned Judge, I am inclined to pass the following directions :

(i) The civil revision petitioner/husband as well as the respondent/wife will present themselves for evaluation before the Institute of Mental Health at Kilpauk.

(ii) The Dean of the Institute of Mental Health is requested to form a Medical Board for evaluation of both the petitioner and the respondent.

(iii) The Board shall thereafter submit a report directly to the learned III Additional Principal Family Judge at Chennai in a sealed cover so as to enable the learned Judge to decide on the allegations and counter allegations that have been made by the parties.

(iv) The Dean of the Institute of Mental Health is requested to constitute a Board as early as possible in any event within a period of one month from the date of receipt of a copy of this order.

13. With the above directions, the Civil Revision Petition stands



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disposed. No costs. Consequently, the connected Civil Miscellaneous
Petition is closed.

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Index: Yes/No

Speaking Order : Yes/No

Neutral Citation: Yes/No

V. LAKSHMINARAYANAN, J.



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WEB COPY To

- 1.The learned III Additional Principal Family Judge,
Chennai
- 2.The Dean,
Institute of Mental Health at Kilpauk

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