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CRP.No.5004 & 5005 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

C.R.P.NOS.5004 & 5005 OF 2023 &
CMP.NOS.29213 & 29208 OF 2023

Mr. M. Kanagaraj
(cause title accepted vide
court order dated 18.12.2023
made in CMP.No.18014/2023
in CRP.SR.90116/2023)
in

.. Petitioner

both CRPs.

Vs

1. Mr. S. Arulselvam
2. Mrs.K.Punitha

.. Respondents
in both

CRPs

Prayer in CRP.No.5004 of 2023: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the adjudication dated 07.07.2023 in HMOP.No.3079 of 2016 passed by the learned II Additional Judge, Family Court, Chennai.

Prayer in CRP.No.5005 of 2023: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the adjudication dated 30.06.2023 in GWOP.No.2607 of 2022 passed by the learned II Additional Judge, Family Court, Chennai.



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For Petitioner : Mr.P.S. Vijayakumar

COMMON ORDER

These Civil Revision Petitions have been filed challenging the adjudication dated 30.06.2023 in GWOP.No.2607 of 2022 and adjudication 07.07.2023 in HMOP.No.3079 of 2016 passed by the learned II Additional Judge, Family Court, Chennai.

2. The learned counsel for the petitioner submitted that the petitioner is the father in law of 1st respondent. The 2nd respondent is the ex-wife of 1st respondent. The 1st respondent husband obtained an exparte decree against the 2nd respondent wife in HMOP.No.3079 of 2016 on the file of II Addl. Family Court, Chennai on 27.07.2021 and the same is now challenged under I.A.No.3 of 2022 in I.A.No.1 of 2021 in H.M.O.P.No.3079 of 2016 to set aside the same and the said I.A. was dismissed on 03.10.2019. On 02.12.2021, the 1st respondent performed second marriage with one Uma. The 2nd petitioner wife filed reopen petition in exparte order passed in divorce petition. He further submitted that their minor daughter aged 6 years was handed over to the 2nd respondent wife, but the first son aged 8 years was with his



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father, i.e., 1st respondent husband. The 2nd respondent wife filed GWOP.No.2607 of 2022 before the II Addl. Family Court, Chennai seeking custody of her first son Dinesh Pandian. The 1st respondent husband filed I.A.No.3 of 2023 in GWOP.No.2607 of 2022 praying to direct the 2nd respondent and her daughter Kaviya to appear before the Registered Psychiatrist. The Family Court, by order dated 30.06.2023 directed the 2nd respondent wife to undergo medical treatment accompanied by the 1st respondent husband and upon forcible consent of the 2nd respondent, she was sent along with her divorced ex-husband, which according to the petitioner, is illegal and unlawful. Based on the consent of the second respondent wife to go along with the 1st respondent husband, the II Addl. Family Judge, Chennai, by order dated 07.07.2023, once again referred the matter to DMC for amicable settlement.

3. He further submitted that the 1st respondent husband had already obtained divorce and had got secondly married with one Uma and has been living with her. The consent of the 2nd respondent wife, who was already mentally ill due to depression cannot be considered as a valid



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consent for going along with the ex-husband for treatment. That apart, taking advantage of the 2nd respondent's mental illness, there is great chance that the 1st respondent would induce her to withdraw the cases filed against him and his family. For the foregoing reasons, he prayed for setting aside the impugned orders dated 30.06.2023, 07.07.2023 passed in GWOP.No.2607 of 2022 and HMOP.No.3079 of 2016 respectively and for allowing these Civil Revision Petitions.

4. Heard the learned counsel for the petitioner and perused the impugned orders passed by the trial court.

5. Perusal of records would reveal that the 1st and 2nd respondents are husband and wife and they are having two children aged 6 years and 8 years. Now the 1st petitioner got exparte decree of divorce from the 2nd respondent in HMOP.No.3079 of 2016 and got secondly married with one Uma. The 1st respondent is having custody of their son and the 2nd respondent is having custody of her daughter. In order to get the custody of her son, the 2nd respondent wife has filed GWOP.No.2607 of 2022. It is seen that pending GWOP, the 2nd respondent filed a memo



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dated 30.06.2023 stating that she is willing to go with her husband along with her daughter and her husband would be the sole responsible person for her safety and security. Further, it is seen that the 1st respondent has also gave an undertaking before the Family Court stating that since her wife is in mental stress and depression, he would give her suitable medical treatment and he would not give any mental or physical torture to her and would bring her in well and good condition before the court on the next date of hearing on 07.07.2023. On 07.07.2023, when the matter was taken up for enquiry, the Family Court passed the impugned order stating that both the parties are willing to settle the matter amicably and the 1st respondent husband is providing food and cloth to the 2nd respondent wife and therefore the matter was once again referred to DMC (District Mediation Centre) for amicable settlement and the report of such mediation shall be produced before the trial court by 16.08.2023. It is seen that mediation report is still awaited. Now the petitioner has come before this court challenging the impugned orders directing the 1st respondent husband and 2nd respondent wife to go for an amicable settlement. In the above circumstances, I find no illegality or irregularity in the orders passed by the trial court. There is no merits in



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the Civil Revision Petitions. Hence, these Civil Revision Petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

04.01.2024

msr

Index: yes/no

Internet:yes/no

To

The II Addl. Judge, Family Court,
Chennai



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V. SIVAGNANAM, J.

msr

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