



CRP No.619 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

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Mr.E.Purushothaman

... Petitioner

Vs.

Mrs.V.Sasikala

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order made in IA No.1 of 2023 dated 13.09.2023 on the file of the Sub-ordinate Judge at Tambaram.

For Petitioner : Mr.Ramasamy

For Respondent : Ms.V.S.Usharanai for caveator



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ORDER

The civil revision petition is filed to set aside the fair and decreetal order in IA No.1 of 2023 dated 13.09.2023 on the file of the Sub-ordinate Judge at Tambaram.

2. The revision petition is the husband and the respondent is the wife. The respondent wife has filed a petition in HMOP No.459 of 2015 on the file of the Subordinate Judge, Tambaram seeking divorce. Pending trial, the petitioner husband has filed an application in IA No.1 of 2023 under Section 151 CPC for medical examination of the respondent wife thereby to direct the respondent wife to undergo paternity test along with the minor for further orders. The trial court, by order dated 13.09.2023, dismissed the said application. Challenging the said order, the petitioner has filed the present civil revision petition.

3. Learned counsel for the petitioner husband submits that the allegation of the respondent wife was serious in nature against the



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petitioner. Therefore, it was necessary for the paternity test. Hence, seeking to allow the Revision.

4. Learned counsel for the respondent contended that it is unwarranted to undergo DNA test for the respondent wife while the respondent wife has filed a petition for divorce against the husband. Further, a petition filed by the petitioner husband for conjugal rights, has also been dismissed for default. Hence, seeking to dismiss the Revision.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. On a perusal of records, it is noticed that the petitioner is the husband and respondent is the wife in HMOP No.459 of 2015 on the file of Subordinate Judge, Tambaram. Pending trial, the petitioner husband filed an application in IA No.1 of 2023 under Section 151 CPC for medical examination of the respondent and her child thereby to direct the respondent



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to undergo paternity test. Further, it is noticed that the respondent wife filed a divorce petition on the ground of cruelty and desertion and the case is pending for cross examination of respondent wife, PW1. Under these circumstances, filing a petition to undergo medical test and submit for DNA test in the absence of any valid reason is unsustainable. Considering the said fact, the trial court has rightly dismissed the petition seeking for submission of DNA test. I find no infirmity in the order passed by the trial court. Hence, the civil revision petition it is dismissed. The learned Subordinate Judge, Tambaram, is directed to dispose of HMOP No.459 of 2015, as early as possible. There shall be no order as to costs. Consequently, CMP No.3067 of 2024 is closed.

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Index: Yes/No
Internet: Yes/No
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To
The Sub-ordinate Judge at Tambaram.

V.SIVAGNANAM, J.



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