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C.R.P.No.4491 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4491 of 2024

R.Saravanakumar

.. Petitioner

Versus

D.Vidya

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.3 of 2024 in HMOP.No.95 of 2015 dated 27.09.2024 on the file of the learned Subordinate Judge at Harur.

For Petitioner : Mr.Venkatesh
for Mr.R.Jayaprakash

ORDER

This civil revision petition arises against the order passed by the learned Subordinate Judge at Harur in I.A.No.3 of 2024 in HMOP.No.95 of 2015 dated 27.09.2024.



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2. HMOP.No.95 of 2015 had been presented under Section 12 of the Hindu Marriage Act pleading that the marriage between the petitioner and the sole respondent is nullity.

3. Originally the proceedings were initiated before the learned Subordinate Judge, Dharmapuri. Thereafter on creation of Subordinate Court at Harur, the suit was transferred to the said Court and renumbered as HMOP.No.95 of 2015 before the latter court.

4. The petitioner has completed his chief examination on 22.02.2024 by filing his proof affidavit. Subsequently, he was cross examined. Thereafter, he examined his mother as PW2. Thereafter, he took out an application stating that as he was working in Chennai, he did not have certain documents and since he had deposed at the time of cross examination, he will produce the same, he filed an application to re-call his evidence.

5. The respondent/wife filed a detailed counter pointing out that the documents, on the basis of which the petitioner wants to recall his evidence,



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had not even been pleaded in the petition or in the proof affidavit. She further pointed out that there was a direction in CRP.No.1397 of 2023 on 17.11.2023 directing the HMOP itself to be disposed of within a period of six weeks from the date of receipt of a copy of that order.

6. The learned Trial Judge on consideration of affidavit and counter, came to a conclusion that the petition is an attempt by the husband to delay the proceedings further. He consequently, dismissed the petition. Hence, this revision.

7. I have heard Mr.Venkatesh for Mr.R.Jayaprakash for the civil revision petitioner.

8. Mr.Venkatesh states that certain documents were filed along with the proof affidavit of the mother when she was examined on 02.09.2024. However, the court had returned the said documents and hence, the petitioner wants to mark those documents by recalling himself. He pleads that if one opportunity is granted to him, he will mark those documents and proceed further with HMOP.



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9. A perusal of the affidavit filed in support of I.A.No.3 of 2024 shows that the reason that has been pleaded by the civil revision petitioner is that he was in Chennai and therefore, not in a position to produce the same. No where does the affidavit state that there was an attempt to mark those documents through PW2 and hence, have to be introduced through the civil revision petitioner/plaintiff.

10. It is settled position of law that if there is no pleading, there is no question of evidence before the court. Furthermore, the court is already acting on the basis of an order passed in CRP.No.1397 of 2023. As absolutely no reasons have been given in the affidavit, I am not in a position to come to the rescue of the petitioner.

11. This civil revision petition is dismissed. No costs.

11.11.2024

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Index : yes/no
Speaking order/Non-speaking order



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Neutral Citation : yes/no
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To

The Subordinate Judge at Harur.



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V.LAKSHMINARAYANAN, J.

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