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C.R.P.No.4647 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.4647 of 2024

R.Saravanakumar

...

Petitioner

Vs.

D.Vidya

...

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order passed in I.A.No.7 of 2024 in H.M.O.P.No.95 of 2015 dated 16.10.2024 on the file of the Subordinate Judge, Harur.

For Petitioner

: Mr.R.Jayaprakash

For Respondent

: Mr.Vijaya Baskar.N

ORDER

This civil revision petition arises against the order of the Subordinate Judge, Harur, Dharmapuri, in I.A.No.7 of 2024 in H.M.O.P.No.95 of 2015, dated 16.10.2024.



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2.The civil revision petitioner is the husband. He presented H.M.O.P.No.119 of 2012, which was subsequently re-numbered as H.M.O.P.No.95 of 2015, on the file of the Subordinate Judge, Harur. It seeks for a declaration of nullity of marriage invoking Section 12 (1) (a) & (b) of the Hindu Marriage Act. The respondent/wife filed a detailed counter. The matter was taken up for trial and the Trial has concluded. The matter is now listed for arguments. At this stage, the petitioner/husband filed I.A.No.7 of 2024 seeking to examine the following persons,

- (i) Controller of Examination, Anna University, Guindy, Chennai.
- (ii) The Proprietor, Silver Holiday Cottages, Yercaud, Salem.
- (iii) Tmt.M.Selvi HC DPI/311, AWPS, Harur.
- (iv) Dr.V.Pandiyan, Annai Hospital, Thiru.Vi.Ka.Nagar, Harur.

2.1.The reason given for examining them is “to prove the veracity of the claims made by him”. Apart from this, no other reasons were given for taking out the summons under Order XVI Rule 1 of C.P.C. This petition was stoutly resisted by the respondent/wife stating that absolutely no



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reasons have been tendered for invoking Order XVI Rule 1 of C.P.C. She also pointed out that there is a direction in C.R.P.(PD).No.1397 of 2023, dated 07.11.2023, to dispose of the HMOP within a period of six weeks from the date of receipt of a copy of the order in that revision. The learned Trial Judge after examining the counter and affidavit came to the conclusion that the petition had been filed for the purpose of dragging on the matter and that it is devoid of any merits. Challenging the same, the present civil revision petition.

3.I heard Mr.Venkatesh for the civil revision petitioner.

4.Mr.Venkatesh reiterated the contentions made in the Court below.

5.I went through the affidavit filed in support of I.A.No.7 of 2024. Apart from the single statement that the witnesses are required to prove the veracity of the claim, there is absolutely no reason that has been given for the purpose of examination of the summoned witnesses. Under Order XVI



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Rule 1 of C.P.C., a person can be summoned to the Court only if the purpose for which the witness is produced to be summoned is clearly pleaded and disclosed. (see Order XVI Rule 1 (2) of C.P.C.) Prior to the issuance of summons, a mandate is directed on to the Court that the reasons should be recorded for issuance of summons. When the petitioner himself has not given any reason, obviously, the Court cannot issue summons as required under Order XVI Rule 1 (3) of C.P.C., I do not find any reasons to interfere with.

6. Accordingly, the civil revision petition stands dismissed. No costs.

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Internet: Yes
Index: Yes/No
Speaking/Non speaking order
NCC: Yes/No

19.11.2024

To:
The Subordinate Court,
Harur, Dharmapuri.



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V.LAKSHMINARAYANAN,J.

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