



WEB COPY



CRP.No.5087 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

C.R.P. No.5087 of 2023

U. Inbakumar @ Immanuvel,
No.288, Mettu Street, Edoor Village
and Post,
Gummudipoondi Taluk,
Tiruvallur District 601 201

.. Petitioner

VS

K. Padmasri @ Prinsy
No.103, Kovil Street,
Edoor Village and Post,
Gummudipoondi Taluk,
Tiruvallur District 601 201.

... Respondent

Prayer: Civil Revision Petition filed under section 227 of C.P.C., praying to set aside the order dated 07.11.2022 made in un-numbered IDOP Filing No.227 of 2022 on the file of the Principal District Judge, Tiruvallur and direct the Principal District Judge, Tiruvallur and direct the Principal District Judge, Tiruvallur to number the IDOP and dispose off the same on merits.

For Petitioner : Mr. B. Harikrishnan
for Mr. P. Amarnath



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ORDER

This Civil Revision Petition is filed challenging the order dated 07.11.2022 passed by the Principal District Judge, Tiruvallur made in un-numbered IDOP Filing No.227 of 2022 and direct him to number the IDOP and dispose off the same on merits.

2. The learned counsel for the petitioner submitted that the petitioner is the husband of the respondent and the marriage between them was held on 13.03.2017. The parties are Christians. Due to difference of opinion between them, the petitioner filed a divorce petition under section 10(1) of Indian Divorce Act in unnumbered IDOP filing No.227 of 2022 before the Principal District Judge, Tiruvallur for dissolving the marriage between them on 13.03.2017. The said divorce petition was returned by the court below on 13.09.2022 for production of marriage registration certificate on the ground that as per the provision of Indian Divorce Act, the marriage should be registered and if it is not registered, petition for dissolving the marriage is not maintainable as per the provision.

3. The learned counsel further contended that there is no bar



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in Indian Divorce Act for filing divorce petition without marriage registration certificate. Hence he prayed to allow the revision by directing the Principal District Judge, Thiruvallur to take the case on file and conduct the case.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5.It is the submission of the learned counsel for the petitioner that the marriage between the petitioner and the respondent was not registered. For want of marriage registration certificate, the divorce petition filed by the petitioner was rejected by the court below as not maintainable. On perusal of records, the fact reveals that the petitioner and the respondent are Christians and they married on 13.03.2017 according to Christian Marriage Rites and the marriage is not registered. Due to difference of opinion, they got separated. The petitioner/husband filed divorce petition before the Principal District Judge, Thiruvallur in unnumbered IDOP SR.227 of 2022. In the impugned order, it is noticed that the learned trial judge rejected the petition only on the ground that the petitioner had not produced the marriage certificate and the marriage was not registered and hence the petition for dissolving marriage is not



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maintainable, but registration of marriage is not pre-requisite for filing divorce petition under the Indian Divorce Act. Therefore, the rejection of divorce petition was unsustainable. Hence, the impugned order is set aside. The Principal District Judge, Thiruvarur is hereby directed to take the case on file, if it is, otherwise in order and proceed the case and decide it on merits and in accordance with law, after issuing notice to the respondent.

6. The Civil Revision Petition is allowed accordingly. No costs.

05.01.2024

msr

Index:yes/no

Internet:yes/no

To

The Principal District Judge,
Tiruvallur.

V. SIVAGNANAM, J.

msr



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