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C.R.P.No.4565 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P.No.4565 of 2023
and
C.M.P.No.27344 of 2023

S.Menaka

... Petitioner

Vs.

K.S.K.Nepolian Socraties

... Respondent

Prayer: This Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair order and decretal order dated 15.11.2023 passed in I.A.No.10 of 2023 in O.P.No.4812 of 2019 on the file of V Additional Principle Family Court, Chennai.

For Petitioner	: Mr.G.Mohana Krishnan
For R1	: Mr.R.Marudhachalamurthy

ORDER

“Though, today the matter is listed under the caption for being mentioned, it is seen from the records, that the question of 'being mention'



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would not arise. This Court has already recalled the order dated 05.12.2023, by order dated 28.02.2024. Now this Court is inclined to pass the order on merits after hearing both sides.”

2. This petition has been filed to set aside the fair and decretal order dated 15.11.2023 passed in I.A.No.10 of 2023 in O.P.No.4812 of 2019 on the file of V Additional Principle Family Court, Chennai.

3.The petitioner herein filed I.A.No.10 of 2023 in O.P.No.4812 of 2019, to reopen the evidence of the petitioner as RW1 to permit the petitioner to file the additional documents in O.P.No.4812 of 2023. After considering the submissions on either side, the Court below held that the application will be decided after the disposal of CMP No.5592 of 2022 in CMA No.1914 of 2021 pending before this Court. By challenging the same the petitioner has filed this petition.

4. Considering the facts of the case, the respondent herein has filed O.P.No.4812 of 2019 for divorce, in that petition the petitioner herein filed I.A.No.4 of 2021 for interim maintenance and the same was allowed.



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Challenging the same, the respondent herein filed CMA.No.1914 of 2021 before this Court and the same was stayed by this Court with the condition to pay a sum of Rs.3,50,000/- to the petitioner herein. Again, the petitioner herein filed E.P.No.143 of 2022 to execute the order in I.A.No.4 of 2021, stating that the stay is only for E.P.No.88 of 2021. Hence, the respondent herein filed CMP No.5592 of 2022 in CMA No.1914 of 2021 to stay that proceedings and the same was allowed. Thereafter, the petitioner herein filed I.A.No.10 of 2023 in O.P.No.4812 of 2019 before the Trial Court to reopen the evidence of the petitioner as R.W.1 to permit the petitioner to file the additional documents in OP.No.4812 of 2023 but the Court held that the application will be decided after the disposal of CMP.No.5592 of 2022 in CMA.No.1914 of 2021 which is pending before this Court.

4(i). The learned counsel for the respondent raised a strong objection in respect of the documents sought to be marked by the petitioner. He submitted that except one document (RC-Book) most of the documents are related properties of the father and mother of the respondent which are no way connected to the matrimonial dispute pending between the parties. All the properties not belong to this petitioner, therefore those documents are



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unnecessary to the proceedings. Further he submitted that because of the petitioner, the proceedings are prolonging, in spite of the direction given by this Court to dispose of the case as early as possible and she used to file one or the other applications to cause hindrance to the trial proceedings. According to the petitioner to prove the means of the respondent, she collected all those documents on her side in order to prove her case.

4(ii). Considering both side submissions it reveals that now the trial has begun and on the side of the respondent RW1 was examined. If at all the documents produced on the side of the petitioner belongs to the family members of the respondent, liberty is granted to the respondent to raise objections if any, before the trial Court and it is a settled proposition of law, and mere marking of the documents would not amount to admission of the same, while concluding the evidence, the trial Court is empowered to adjudicate the documents whether it is necessary or not. Hence, petitioner's permitted to produce all the documents she relied before trial Court.

4(iii). Therefore, this Court is of the view that, the Trial Court failed to appreciate the fact that this Court stayed the proceedings only in I.A.No.4 of



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2021 in O.P.No.4812 of 2019, more over recording evidence of RW1 is totally independent proceedings, not for the entire proceedings in O.P.No.4812 of 2019. Time to dispose of the case within a period of three months from the date of receipt of a copy of this order. Hence, the order passed by the trial Court in I.A.No.10 of 2023 in O.P.No.4812 of 2019 is set aside. Thus, I.A.No.10 of 2023 in O.P.No.4812 is allowed.

5. In the result, this Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/ No
Neutral Citation: Yes/No

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