



C.R.P.(PD).No.4794 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4794 of 2024

and

C.M.P.No.26843 of 2024

Annamalai

... Petitioner

..Vs..

1.Suguna

2.Sengottaiyan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 07.11.2024 made in I.A.No.6 of 2023 in H.M.O.P.No.5 of 2019 on the file of the learned Subordinate Judge, Sankari and to allow the Civil Revision Petition.

For Petitioner : Mr.C.Munusamy



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ORDER

This Civil Revision Petition arises against the order passed by the learned Subordinate Judge, Sankari in I.A.No.6 of 2023 in H.M.O.P.No.5 of 2019 dated 07.11.2024.

2. H.M.O.P.No.5 of 2019 seeks divorce on the ground of cruelty. The petitioner married the respondent on 11.06.2001. From the wedlock, two children were born in and around 2003 and 2004. The wife was subsequently appointed as Village Administrative Officer. The husband and wife were living together till 2018. On account of some allegations, that were made by the civil revision petitioner/husband against the wife, she separated and initiated divorce proceedings.

3. The respondent/husband filed an application in H.M.O.P.No.75 of 2021 seeking for restitution of conjugal rights. H.M.O.P.No.5 of 2019-the divorce petition is yet to be taken up for trial. At that stage, the husband filed an application in I.A.No.6 of 2023, seeking to implead one Sengottaiyan, as



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a party respondent to the proceedings. The wife resisted the application stating that there is no necessity to implead the proposed party, as a party to the proceedings.

4. The learned Trial Judge considered the affidavit, petition and counter and came to a conclusion that the petition is only meant for the purpose of dragging on the litigation and hence dismissed the same.

5. Aggrieved by the same, the present revision is filed.

6. I heard Mr.C.Munusamy for the civil revision petitioner.

7. Mr.C.Munusamy states that if the second respondent is brought on record, it would enable the Court, to reach a just conclusion. He adds that the entire dispute between the petitioner and the first respondent arose only on account of the second respondent. Therefore, he states that he is a necessary party to the proceedings. Hence, he seeks that the order to be revised.



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8. A necessary party to a proceedings is one, without whose presence a Court cannot enter upon a judgment. H.M.O.P.No.5 of 2019 has been predicated on allegations of cruelty meted out by the civil revision petitioner on the first respondent. If the first respondent proves the said allegation, she will be entitled to a decree of divorce. In case, she does not, then, the petition is going to be dismissed.

9. In these proceedings, the presence of the second respondent is neither essential nor necessary. The husband waited for a period of 5 years, to file an application to implead. This itself shows that, it is a strategy to delay the proceedings, which is now at the stage of cross examination of P.W.1. As the third party is, neither a proper nor necessary party, in a divorce petition for cruelty, I do not find any reason to interfere with the petition.

10. Accordingly, the Civil Revision Petition is dismissed. No costs.



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Consequently, the connected miscellaneous petition stands closed.

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Index : Yes

Internet : Yes

Neutral Citation Case: Yes/No

To

1. The Subordinate Judge,
Sankari.

V.LAKSHMINARAYANAN, J.

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