



C.RP(MD)No.839 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 09.07.2024

CORAM

THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

**C.R.P(MD)No.839 of 2024
and
C.M.P(MD).No.4674 of 2024**

Palanichamy

... Petitioner

Vs.

Parvathy

...Respondent

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the I.A.No.4 of 2023 in H.M.O.P.No.444 of 2023 on the file of the Family Court, Karur, by allowing this civil revision petition.

For Petitioner

: Mr.R.Murugan

For Respondent

: Mr.V.Balaji

ORDER

The civil revision petition is filed as against the order dated 11.12.2023 passed by the learned Judge, Family Court, Karur, in I.A.No.4 of 2023 in H.M.O.P.No.444 of 2023.



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2. The HMOP is filed by the petitioner/husband for dissolution of the marriage on the ground of cruelty and desertion. The petitioner examined himself as PW1 and his evidence was closed on 06.07.2023. Thereafter, the matter was posted for respondent's side evidence and the respondent's side evidence was also closed on 11.10.2023 and the matter was posted for arguments. At that stage, on 27/11/2023, this application is filed for re-opening the evidence of the petitioner's side with a prayer to permit him to examine P.W. 2 and P.W.3. In the petition filed by the petitioner before the lower Court, it is mentioned that he wanted to examine one Mani and Vadivel for proving that the wife is committing cruelty and she is not living with him for the past 16 years. It is also mentioned that on his behalf he wants to examine one Ramayee. Nothing is mentioned about the particulars of the said persons and of the three persons, who are the two persons, who have to be examined as P.W.2 and P.W.3 also. The trial Court, considering all the above and considering the fact that not even the relationship of the said witnesses, who are now sought to be examined and what is their knowledge etc., and also the lacuna in the very affidavit filed along with the application, dismissed the application. As against which, the present civil revision petition is filed.



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3. The learned counsel for the petitioner would submit that when the said relatives are family elders and examining them would prove the facts as to the separate living by the wife and also the act of cruelty committed by her, the trial Court should have granted one opportunity.

4. I have considered the said submissions made on behalf of the learned counsel for the petitioner and also heard the learned counsel for the respondent and perused the materials record of the case.

5. As pointed out by the learned counsel for the respondent, if the affidavit filed in support of the application before the trial Court was fallacious, before this Court in the affidavit in paragraph No.6, it is mentioned as if already P.W.2 and P.W.3 are examined and the matter is sought to be re-opened for re-examining the P.W.2 and P.W.3 and additionally, he wants to examine one Ramayee. Therefore, when the affidavits before the trial Court as well as before this Court does not even contain proper particulars and does not even disclose as to what exactly the purpose for which the reopening is prayed for and when the matter is at the stage of arguments, the trial Court has rightly exercised its discretion and dismissed the application. Hence, I do not see any ground to interfere with the order of the trial Court and accordingly, finding no merits, the



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Civil Revision Petition is dismissed. No costs. Consequently, connected
Miscellaneous Petition is also dismissed.

09.07.2024

NCC:Yes/No
Index:Yes/No
Rmk

To

- 1.The Judge, Family Court, Karur.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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D.BHARATHA CHAKRAVARTHY, J.

Rmk

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