



Rev.Appl(MD).No.105 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2024

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

**Rev.Appl(MD).No.105 of 2024
and
in C.R.P(MD).No.1382 of 2022**

V.Panchavarnam

... Petitioner

Vs.

1.P.Jothi

2.V.Kannan

...Respondents

PRAYER: Review application filed under Order 47 Rule 1 & 2 of Civil Procedure Code r/w Section 114 of CPC, review against the order dated 13.12.2022 in C.R.P(MD).No.1382 of 2022 on the file of this Court.

For Petitioner : Mr.A.Prabhakaran

For Respondents : Mr.R.Velmurugan for R1 & R2

ORDER

This review application is preferred against the order dated 13.12.2023 in C.R.P(MD).Nos. 1381 & 1382 of 2022 on the file of this Court.

2.The learned counsel appearing for the review petitioner/plaintiff and petitioner in C.R.P(MD).Nos.1381 &1382 of 2022 would submit that, this



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Court in its order dated 13.12.2023 in the above revision petition ought to have seen the provision under the Code enabling to strike of the scandalous allegation made by the respondent. But this Court simply passed a cryptic order which is liable to be interfered. Hence, prayed for reviewing the order dated 13.12.2023 passed by this Court in C.R.P.(MD).Nos.1381 &1382 of 2022.

3.The above revision petition was filed by the petitioner against the order in I.A.Nos.509 & 510 of 2021 in O.S.No.234 of 2018 dated 06.04.2024 on the file of VI Additional District Judge, Madurai. The said applications were filed by the petitioner to strike of the allegations contained in the written statement by invoking order VI Rule 16 of CPC and to strike of issue No.4 framed by the trial Court. However, the trial Court dismissed the above applications in I.A.Nos.509 and 510 of 2021 in O.S.No.234 of 2018 dated 06.04.2022. Aggrieved by this, the petitioner preferred a revision petition which was also dismissed by this Court on 13.12.2023 by stating that the marital status of the plaintiff has to be established at the time of trial and that the trial Court has rightly framed issue No.4 and therefore, the same cannot be construed as scandalous and frivolous. The scanned reproduction of the said order is as follows:



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12. Heard on both sides and perused the records.

13. On perusal of records, it is not in dispute that the suit properties are the self acquired properties of father of the Respondents. The Revision Petitioner claiming to be the 2nd wife of the said C.Veeraiah who is the father of Respondents, filed the above suit for declaring the cancellation deed executed by the said C.Veeraiah in favour of the Respondents as null and void. Since the Revision Petitioner claims to be the 2nd wife of the said C.Veeraiah, it is obligatory on her part to establish the factum of marriage took place between herself and the father of the Respondents. The Respondents in their written statement has narrated so many

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incidents that she only had illicit intimacy with their father.

14. Therefore, the Trial Court has rightly framed the issues with regard to the marital status of the Revision Petitioner. Moreover, it cannot be said that the averments made in the written statement is scandalous and frivolous and therefore, the same cannot be struck off as prayed by the Revision Petitioner. Therefore, the orders passed by the Trial Court is confirmed.

15. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

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24/01/2024

Sub Assistant Registrar
(CS - I / II / III / IV)

24/01/24
C.R.

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To

The VI Additional District Judge,
Madurai.

Copy to:

The Section Officer,
V.R Section,
Madurai Bench of Madras High Court,
Madurai.

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4.It means that the marital status of the plaintiff who herself claims to be the 2nd wife of one C.Veeraiah, father of the respondent/defendant has to be established at the time of trial. All contentions raised in this review petition are only reproducing the arguments putforth in the revision petition. Therefore, I find no error on the face of record or any clerical mistake in the order passed by this Court on 13.12.2023 in C.R.P.(MD).Nos.1381 & 1382 of 2022. This Court makes it clear that the petitioner/plaintiff is not precluded from raising all his contentions before the trial Court with regard to the marital status of the plaintiff.

5.Accordingly, the present review application is dismissed.

19.09.2024

Index:Yes/No
Internet:Yes/No
vsn

To

1.The VI Additional District Judge, Madurai



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vsn

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