



W.A.(MD) No.757 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2024

CORAM

JUSTICE N. SESHASAYEE

and

JUSTICE L.VICTORIA GOWRI

W.A.(MD) No.757 of 2019

Santhimeenal

... Appellant/Petitioner

Vs.

- 1.The Secretary,
Department of Higher Education,
Government of Tamil Nadu,
Secretariat, Chennai-600 001.
- 2.Director of Collegiate Education,
9th Floor, E.V.K.Sampath Building,
College Road, Nungambakkam,
Chennai-600 006.
- 3.Regional Director of Collegiate Education,
Jamal Mohamed College Building,
Trichy.



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4.The Principal,
Government Arts College,
Thanthonimalai, Karur-639 005.

5.Sivasankaran

... Respondents/
Respondents 1 to 5

Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated 06.06.2019 made in W.P.(MD) No.20407 of 2013.

For Appellant	:	Mr.N.Balakrishnan
For RR1 to 4	:	Mr.D.Sadiq Raja Additional Government Pleader
For R5	:	Mr.S.Gokulraj

JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

This appeal arises out of an order passed by a learned Single Judge in W.P.(MD) No.20407 of 2013 in which the appellant herein has sought for initiation of departmental enquiry against the fifth respondent/husband of the appellant pursuant to a complaint given by her accusing the fifth respondent having committed bigamy.



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2. The facts that lead to the initiation of the domestic enquiry against the fifth respondent herein arose in the following circumstances:

(a) The marriage between the appellant and the 5th respondent took place on 17.02.2002. This marriage is stated to be a non-starter. Eventually that led to the institution of H.M.O.P.No.33 of 2002 by the appellant herein for restitution of conjugal rights. The fifth respondent, on his part, would institute H.M.O.P.No.10 of 2005 for dissolution of marriage. Both the petitions came to be jointly tried and the trial Court, *vide* its common order dated 17.03.2008, allowed the husband's petition for dissolution of marriage and dismissed the wife's petition for restitution of conjugal rights. Impatient that the husband was, he contracted the second marriage without waiting for the expiry of the time stipulated for preferring an appeal and his second marriage took place on 23.03.2008. To be precise, the second marriage took place exactly on the sixth day from the date of the order of the trial Court.

(b) Subsequently, the appellant herein preferred two civil miscellaneous appeals *viz.*, C.M.A.Nos.5 of 2011 and 7 of 2011 as against the decrees



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passed by the trial Court. The first appellate Court had found that inasmuch as the fifth respondent had hurried to go for a second marriage, the same was bigamous.

(c) The order of the first appellate Court came to be challenged before this Court in C.M.S.A.(MD) Nos.42 of 2013 and 43 of 2013 by the fifth respondent. *Vide* its judgment 14.09.2018, this Court allowed the same. The appellant would not give up and she preferred Review Application (MD) Nos.193 of 2018 and 194 of 2018 and *vide* order dated 25.02.2019, that came to be allowed. Challenging the order passed in the review applications, the fifth respondent approached the Hon'ble Supreme Court in S.L.P.(C) Nos.17505-17506 of 2019.

(d) In the meantime, after the disposal of the appeals by the first appellate Court and on the strength of the finding of the said Court that the second marriage of the fifth respondent was bigamous, the appellant herein made a complaint to the employer of the fifth respondent to initiate a domestic enquiry. As there was no action taken by the employer, the appellant moved this Court in W.P.(MD) No.20407 of 2013. This Court, *vide* its order dated 06.06.2019, *cited* the pendency



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of the special leave petitions preferred by the fifth respondent and directed the appellant to workout her remedies before the civil Court.

This order of the learned Single Judge is under challenge in this appeal

3. Learned counsel for the fifth respondent would submit that the special leave petitions were later taken on record by the Hon'ble Supreme Court in Civil Appeal Nos.4984-4985 of 2021 and the same were allowed on 13.09.2021. The learned counsel added that the Hon'ble Supreme Court had come down heavily on the appellant's conduct in making complaint against the fifth respondent to almost everyone whom she could contemplate and had held that the same constituted acts of cruelty. He added that in view of the judgment of the Hon'ble Supreme Court, nothing survives for consideration in this appeal, since it has the effect of restoring the finding of the first appellate Court that the second marriage of the fifth respondent was bigamous.

4. This Court perused the judgment of the Hon'ble Supreme Court and is satisfied that the submissions made on behalf of the learned counsel for the



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fifth respondent could hardly be doubted. This necessarily implies that the very cause of action for instituting W.P.(MD) No.20407 of 2013 is lost.

5. To end, this Writ Appeal fails and the same is dismissed. No costs.

(N.S.S., J.) (L.V.G., J.)
12.06.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes

ABR



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