



C.R.P(MD)No.900 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P(MD)No.900 of 2020

Mariappan,

... Petitioner

Vs

Mullai Veluthambi

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to Direct the Family Court, Madurai to number the I.A.S.R.No.3470 of 2020 in H.M.O.P.No.721 of 2016.

For Petitioner : Mr.R.Subramanian

For Respondent : Mr.C.M.Arumugam

ORDER

This Civil Revision Petition had been filed seeking a direction to the Family Court, Madurai to number the I.A.S.R.No.3470 of 2020 in H.M.O.P.No. 721 of 2016.



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2.The dispute between the husband and wife ended in a compromise under the terms settled between the parties, by order dated 05.04.2017, passed in H.M.O.P.No.721 of 2016, on the file of the Family Court, Madurai. The said order clearly deals with the visitation rights given to the Petitioner herein. The related paragraph reads as follows:

2.Both parties are present and they are examined as P.W.1 and P.W.2, Ex.P.1 to Ex.P.5 marked. The evidence of P.W.1 and P.W.2, Ex.P.1 marriage invitation, Ex.P.2 Photograph taken during the time of marriage, Ex.P.3 photo copy of Marriage certificate do confirm that the marriage was solemnized between them on 11.02.2008 and the marriage is in subsistence. Ex.P.3 and Ex.P.4 do confirm the identity as well as address of the petitioners 1 and 2 respectively and the 1st petitioner is now residing within the jurisdiction of this Court. The 2nd petitioner is examined as PW2 and she has deposed that she received the jewels and Sridhana properties from the 1st petitioner and also she returned the jewels that were given by the 1st petitioner at the time of marriage along with gift articles with the 1st petitioner, the minor child Nithilan is under her custody to which the 1st petitioner has no objection and the 2nd petitioner give consent in the visitation right to see the minor by the 1st petitioner in the 4th Saturday every month. The 1st petitioner is examined as PW1 and he has deposed similarly.



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3.However in the decree that was drafted pursuant to the said order, dated 05.04.2017, there is no mention about the visitation rights that are given to the petitioner herein. Hence the petitioner filed an application under Section 152 C.P.C seeking amendment of decree to be in tune with the order passed in the H.M.O.P. However, the said application was returned by the office with certain objections to show as to how such petition is maintainable. The petitioner herein re-presented the same but once again the same was returned requiring the petitioner to show as to how the same is maintainable. The petitioner ought to have represented the matter duly explaining as to how the said petition is maintainable and in case, office is not satisfied with the same, the petitioner could have made a request to call it before the learned Presiding Officer. However, the petitioner without resorting to such procedure, had filed this revision petition. As the dispute between the petitioner and the respondent, who are husband and wife, was settled by way of compromise on agreed terms, there is no dispute on the agreed terms of compromise.

4.This Court examined the matter on merits instead of remitting the matter back to the trial Court for examining the matter. On going through paragraph No.2 of the order, dated 05.04.2017, and the decree drafted



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thereupon, this Court thoroughly convinced that the application filed by the petitioner under Section 152 C.P.C is maintainable as apparently the decree that was drafted is not in tune with the order passed in the main H.M.O.P.No.721/2016. Hence the petitioner is granted liberty to re-present the returned petition before the trial Court concerned within a period of two weeks from the date of receipt of a copy of this order and on such re-submission, the learned trial Court is directed to number the same and take appropriate steps for drafting the decree in tune with the order, dated 05.04.2017, within a further period of two weeks.

5.Accordingly, this civil revision petition is disposed of. No costs.

6.Registry is directed to forthwith return the original petition in I.A.SR No.3470 of 2020 to the learned Counsel appearing for the Petitioner.

25.03.2024

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



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To

1.The Family Court,
Madurai.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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MUMMINENI SUDHEER KUMAR, J.

LR

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