



C.R.P.[MD]No.1618 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2025

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.[PD].[MD]No.1618 of 2025

and

C.M.P.[MD]No.8384 of 2025

S.Gopinath

... Petitioner

Vs.

1.P.Dhanalakshmi

2.S.Manikandan

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to call for the entire records pertaining to the order passed by the learned Sub Judge, Melur, Madurai District in I.A.No.2 of 2024 in H.M.O.P.No.131 of 2021 dated 03.04.2025 and set aside the same.

For Petitioner : Mr.S.Balaji

For R1 : Mr.M.Rajamohan

For R2 : No appearance



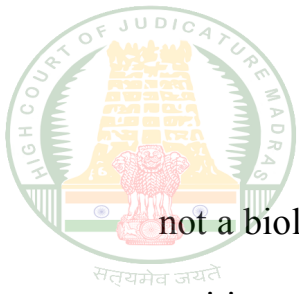
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ORDER

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This petition has been filed seeking to set aside the order dated 03.04.2025 in I.A.No.2 of 2024 in H.M.O.P.No.131 of 2021, on the file of the Sub Judge, Melur, Madurai District.

2. The learned counsel appearing for the petitioner would submit the first marriage was solemnized between the first respondent and the second respondent in the year 2014 and subsequently, the first respondent married the petitioner on 30.03.2018 at Sivan Temple. The petitioner's profession is Poosari and before the marriage, he working as a Poosari in Malaysia for the past 10 years. After 40 days of marriage, again he went to Malaysia for his job. At the time of marriage, the first respondent suppressed her first marriage with the second respondent. After the marriage, there was no cordial relationship between the petitioner and the first respondent and thereafter, he went to Singapore for his avocation and thereafter, he came to know that the first respondent blessed with female child and therefore, he came to India and subsequently, there was a matrimonial dispute arose between the petitioner and the first respondent and thereby, he filed a divorce petition in H.M.O.P.No.131 of 2021, on the file of the Sub-Court, Melur with a prayer to declare the marriage dated 30.03.2018 is null and void and to declare that the petitioner is



not a biological father of the child born on 02.12.2018 and pending HMOP., the petitioner filed I.A.No.2 of 2024 under Order 26 Rule 10A and Section 151 of CPC seeking to conduct DNA test to identify the paternity of the child, however, the same was dismissed. Challenging the same, the present Civil Revision Petition is filed.

3. The learned counsel for the petitioner would submit that admittedly, there was a first marriage between the first respondent and the second respondent. Suppressing the first marriage, the second marriage was performed in between the petitioner and the first respondent on 30.03.2018 and thereafter, a female child born on 02.12.2018. Immediately, after 10 days of the marriage, the petitioner left India. The girl child was not born out of the matrimonial relationship with the petitioner and the first respondent and thereby, he specifically made a prayer in the HMOP petition that the petitioner is not a biological father of the child and hence, it is just and necessary to conduct DNA test. The only source available to the petitioner to prove the paternity of the child is to take the DNA test and prays for allowing the revision.

4. The learned counsel for the first respondent would submit that it is true that there was an earlier marriage between the first respondent and the second



respondent in the year 2014. However, subsequently, there was a customary divorce in between the respondents 1 & 2. After the customary divorce granted by the local panchayat, the second marriage was performed by the first respondent with the petitioner on 30.03.2018. After the marriage, both the first respondent and the petitioner living together in the petitioner's house and the first respondent's house till October 2018. The dispute arose between them only after the petitioner returned to India. The petitioner did not dispute the relationship in between him and the first respondent. However, he is disputed the paternity of the child and the biological status of the petitioner. It can be proved only by adducing evidence and he is vehemently opposing to allow the civil revision petition.

5. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the first respondent.

6. The fact remains that the first marriage between the respondents 1 & 2 was solemnized in the year 2014 and subsequently, there was a customary divorce between them. The second respondent filed H.M.O.P.No.5 of 2023 as against the first respondent seeking divorce. It is also admitted that the first respondent claimed that there was a customary divorce and performed the

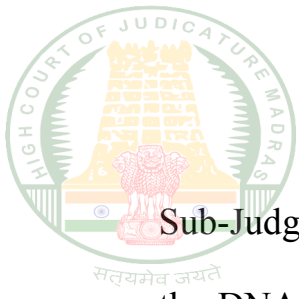


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second marriage in the year 2018, the second respondent filed a divorce petition against the first respondent only in the year 2023 in H.M.O.P.No.5 of 2023.

The petitioner also filed H.M.O.P.No.131 of 2021 for nullity of marriage solemnized between the petitioner and the first respondent and to declare that the petitioner is not a biological father of the child. The petitioner has also filed I.A.No.2 of 2024 seeking to conduct DNA test between the petitioner and the female child Sarvika and the same was rejected by the trial Court. The only source available to the petitioner to prove the paternity of the child is to conduct the DNA test, but the trial Court has wrongly rejected the request of the petitioner and therefore, interference is required.

7. Considering the facts and circumstances of the case, this Court is inclined to allow the Civil Revision Petition. Accordingly, the Civil Revision Petition is allowed by setting aside the order dated 03.04.2025 passed in I.A.No. 2 of 2024 in H.M.O.P.No.131 of 2021 by the learned Sub-Judge, Melur. The learned Sub-Judge, Melur is directed to send the petitioner and the child to the Regional Forensic Science Assistant Director Lab, Collector's Office Road, Madurai. The Regional Forensic Science Assistant Director Lab, Collector's Office Road, Madurai is directed to collect the samples of the petitioner and the child Sarvika and to conduct DNA test and to file a report before the learned



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Sub-Judge, Melur. The first respondent is directed to co-operate for conducting the DNA test in between the petitioner and the child Sarvika. After receiving the DNA test report, the learned Sub-Judge, Melur shall proceed with the H.M.O.P.No.131 of 2021 in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

11.07.2025

Internet:Yes/No

Index:Yes/No

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To

- 1.The Sub-Court,
Melur, Madurai District.
- 2.The Regional Forensic Science Assistant Director Lab,
Collector's Office Road, Madurai.
- 3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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