

K.Saraswathi .. Vs. M.Killivalavan ..

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Court : Chennai

Decided On : Jun-17-2010

Judge : M.Jaichandren, J.

Appeal No. : C.R.P.No.3465 of 2009 and M.P.No.1 of 2009

Appellant : K.Saraswathi ..

Respondent : M.Killivalavan ..

Advocate for Def. : Mr.T.S.Vijaya Raghavan, Adv.

Advocate for Pet/Ap. : Ms.C.L.Srilekha, Adv.

Judgement :

1. This Civil Revision Petition has been filed to strike off H.M.O.P.No.69 of 2009, from the file of the Subordinate Court, Poonamallee.

2. The main contention of the petitioner is that H.M.O.P.No.69 of 2009 filed by the respondent is a vexatious litigation filed with the sole intention of harassing the petitioner. The petition had been filed by the respondent by producing a fabricated bogus marriage certificate and to obtain an order of restitution of conjugal rights, by fraudulent means. It has been stated that the petitioner was never married to the respondent. In fact, on 17.9.2008, the petitioner was forcibly taken to an office at Avadi and she was made to sign some applications in the guise of getting employment in an office. Thereafter, she came to know that her signature had been obtained for registration of her marriage with the respondent at the

Registration Office at Avadi.

3. It had also been stated that her representations to the Sub Registrar, Avadi, for cancellation of the registration of the marriage had not been acted upon. Thereafter, the petitioner had also made a representation to the Commissioner, Hindu Religious and Charitable Endowments Board, on 1.12.2008, to make an enquiry, in respect of the false marriage certificate, dated 27.8.2008. Since, no effective steps were taken by the authorities concerned the petitioner had filed a writ petition before the High Court, in W.P.No.11 of 2009. The High Court was pleased to direct the Commissioner, Hindu Religious and Charitable Endowments Board to conduct an enquiry on the representation of the petitioner, dated 1.12.2008, and to pass appropriate orders thereon, in accordance with law. After a detailed enquiry had been conducted the Commissioner, Hindu Religious and Charitable Endowments Board, had passed an order, in Na.Ka.4609/2009/K.2, dated 12.3.2009, holding that no marriage had taken place between the petitioner and the respondent, on 27.8.2008, at Arulmighu Devi Karumariamman Thirukoil Temple, as alleged by the respondent.

4. It had also been stated that the petitioner had executed a deed of cancellation of the registration of the marriage, on 17.9.2008, and it had been duly registered, on 1.4.2009. However, the Sub Registrar, Avadi, did not cancel the registration of the marriage. Hence, the petitioner had filed a writ petition before the High Court, in W.P.No.7563 of 2009 and it is still pending. The petitioner had also made a complaint to the police, which had been registered as a criminal case, in Cr.No.258 of 2009. Whiles, the respondent had filed H.M.O.P.No.69 of 2009, on the file of the Subordinate Court, Poonamallee, for restitution of conjugal rights, in order to harass the petitioner. In such circumstances, the present civil revision petition had been filed before this court raising various grounds praying that H.M.O.P.No.69 of 2009, filed by the respondent, may be struck off from the file of the Subordinate Court, Poonamallee, as not maintainable in the eye of law.

5. The learned counsel appearing on behalf of the respondent had submitted that there was a valid marriage between the petitioner and the respondent. The marriage had also been registered in the office of the Sub Registrar, Avadi.

Thereafter, for some unknown reasons the petitioner has been behaving in an odd manner and she had refused to live with the petitioner. In such circumstances, the respondent had filed H.M.O.P.No.69 of 2009, on the file of the Subordinate Court, Poonamallee, for restitution of conjugal rights. The allegation of the petitioner that the respondent had filed H.M.O.P.No. 69 of 2009 with unclean hands and with the sole intention of harassing the petitioner is false and frivolous.

6. The learned counsel had also stated that the petitioner had filed a suit, in O.S.No.141 of 2010, before the District Munsif Court, Poonamallee, to declare the registration of the marriage between the petitioner and the respondent as null and void. In fact, it is the petitioner who has been making irrelevant and frivolous representations before the various authorities and has been filing writ petitions before the High Court, praying for unsustainable reliefs. In such circumstances, the civil revision petition is untenable and devoid of merits.

7. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, this Court is of the considered view that the petitioner has not shown sufficient cause or reason to grant the relief, as prayed for in the present civil revision petition. The petitioner has filed the present civil revision petition even though she has the option of defending herself by raising all the objections before the Subordinate Court, Poonamallee, in H.M.O.P.No.69 of 2009, filed by the respondent.

8. Further, it is seen that the petitioner had filed a civil suit, in O.S.No.141 of 2010, before the District Munsif Court, Poonamallee, to declare the registration of the marriage between the petitioner and the respondent, as null and void. Further, a Division Bench of this Court by its order, dated 8.4.2010, had directed the District Munsif Court, Poonamallee, to dispose of the said suit, as expeditiously as possible, preferably, within a period of six months from the date of the filing of the suit.

9. It has not been sufficiently shown by the petitioner that the petition filed by the respondent, in H.M.O.P.No.69 of 2009, on the file of the Subordinate Court, Poonamallee, for restitution of conjugal rights, is frivolous and vexatious. As the civil revision petition is devoid of merits, it stands dismissed. No costs.

10. However, it goes without saying that the petitioner could raise all the grounds available to her before the Subordinate Court, Poonamallee, in H.M.O.P.No.69 of 2009, while contesting the same. The Subordinate Court, Poonamallee, is directed to dispose of H.M.O.P.No.69 of 2009, on merits and in accordance with law, by giving sufficient opportunity of hearing to the parties concerned, within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

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