
(2012) 03 KAR CK 0051

In the Karnataka High Court

Case No : Writ Petition No's. 7505 and 8619 of 2012 (GM-FC)

Abdul Naveed

APPELLANT

Vs

Dr. Masbah Najam

RESPONDENT

Date of Decision : 21-03-2012

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 16 Rule 6, Order 18 Rule 17
Special Marriage Act, 1954 — Section 22

Citation : (2012) 2 KarLJ 692

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : H. Kantharaja, for the Appellant; P.N. Harish, for the Respondent

Final Decision : Dismissed

Judgement

S. Abdul Nazeer, J.—The petitioner has filed M.C. No. 3 of 2010 on the file of the Senior Civil Judge and JMFC, Bhadravathi, u/s 22 of the Special Marriage Act, 1954, against the respondent for restitution of conjugal rights and for certain other reliefs. The respondent has filed objections to the said petition. The parties have let in evidence and the matter is posted for arguments. At this stage, the petitioner has filed two applications I.A. Nos. 13 and 14 under Order 18, Rule 17 of the Civil Procedure Code, 1908 and Order 16, Rule 6 of the CPC respectively. In the affidavit filed in support of the application I.A. No. 13, the petitioner has stated that the father of the respondent and the respondent herself have given their statement before the police with regard to the marriage of the petitioner with the respondent. R.W. 1 in her evidence has also admitted the same. The said document is necessary to establish his case. In the affidavit filed in support of the application I.A. No. 14, the petitioner has sought for a direction to the Sub-Inspector of Police (Law and Order), Old Town, Bhadravathi, to give evidence and to produce the complaint filed by the petitioner and the statement recorded in NCB No. 14 of 2009. The respondent has opposed the applications. After consideration of the rival contentions of the parties, the Court below has

dismissed the applications by order dated 16-2-2012. The petitioner has called in question the validity of the said order in these writ petitions. Learned Counsel for the petitioner submits that the petitioner is not able to produce the document in question it is in the custody of the police. In order to decide the dispute in controversy, the Court below ought to have summoned the said documents and also Sub-Inspector of Police (Law and Order), Old Town, Bhadravathi, to give evidence.

2. On the other hand, learned Counsel for the respondent has sought to justify the impugned order. The petitioner has filed the aforesaid applications for re-opening the case and to summon the Sub-Inspector of Police (Law and Order), Old Town, Bhadravathi, to produce the documents and to give evidence in connection with NCB No. 14 of 2009. The contention urged on behalf of the petitioner is that the father of the respondent and the respondent herself have given their statement before the police with regard the marriage of the petitioner with the respondent. Admittedly, the case is posted for arguments. The petition seeking restitution of conjugal rights was filed in the year 2010. The statement said to have made by the respondent and her father in NCB No. 14 of 2009 was in the year 2009. Therefore, the petitioner was aware of the said fact even before filing of the case for restitution of conjugal rights. That is why the Court below has observed that the above applications have been filed by the petitioner in order fill up the lacuna of his case. I am entirely in agreement with the reasons assigned by the Court below for rejection of the applications. There is no merit in these writ petitions. They are accordingly dismissed. No costs.