

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1321 of 2017

M. Chandrakala @ Chandra

.. Petitioner

Vs.

R. Jayachandran

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decree made in I.A.No.1579/2011 in HMOP.No.819/2007 on the file of the District Family Court, Coimbatore.

For Petitioner

: Mr.R.Lakshminarayanan

ORDER

This Civil Revision Petition has been filed against the order and decree made in I.A.No.1579/2011 in HMOP.No.819/2007 on the file of the District Family Court, Coimbatore.

2. The petitioner/wife filed HMOP.No.819/2007 against the respondent for a decree of divorce. The respondent filed HMOP.No.651/2007 against the petitioner for restitution of conjugal rights. Both the HMOPs were heard together and many evidences were let in and the HMOP filed by the petitioner was allowed and HMOP filed by the respondent was dismissed on 02.05.2011. After delivery of common judgment, the petitioner filed I.A.No.1579/2011 for return of various

items given to her by her parents at the time of her marriage and after marriage. The respondent filed a counter and denied all the averments made by the petitioner.

3. The respondent has also stated that he has filed CMA.Nos.106 and 107 of 2012 against the common judgment on the file of the District Family Court, Coimbatore District against the petitioner and the same is pending. But the learned Trial Judge, considered the Provisions under Section 27 of the Hindu Marriage Act, under which, the petitioner filed this present petition claiming return of articles and money and the fact is that the petitioner did not seek return of these articles and did not mention about them in HMOP filed by her and counter filed in HMOP.No.651/2007 during pendency of the appeal in CMA.Nos.106 and 107 of 2012 filed by the respondent, dismissed the application holding that the petitioner did not seek return of articles from the year, 2007-2011, till final orders are passed.

4. Against that order, the present Civil Revision Petition is filed.

5. From the materials on record, it is seen that the petitioner has not mentioned anything about the articles given to her at the time of marriage, which is, now claimed by the petitioner from the respondent.

6. The learned District Family Court Judge, Coimbatore, dismissed the application holding that it is open to the petitioner to take proceedings under the Domestic Violence Act and civil proceedings.

7. Now in the appeal filed by the respondent and the HMOP filed by petitioner also, she does not claim these articles from 2007 to 2011 during the pendency of the HMOP.No.819/2007 filed by her. Further the petitioner has not disputed the averments of the respondent that the appeals filed against the common judgment are pending.

8. The learned Trial Judge has properly considered all these aspects and appreciated the scope of "*functus officio*" under Section 27 of Hindu Marriage Act which became cogent one and has rightly dismissed the application. There is no irregularity and illegality in the order passed by the learned Trial Judge warranting interference by this court.

In the result, the Civil Revision Petition is dismissed.

10.04.2017

Speaking/Non-speaking order
Index : Yes/No
gv

V.M.VELUMANI,J.

gv

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