

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2020

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(NPD).No.248 of 2013

and

MP.Nos.1 & 2 of 2013

S.Vedavalli

...Petitioner/
Proposed 2nd respondent

Vs.

1.D.Ramesh

2.D.Suresh

...Respondents

PRAYER: This Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the order dated 17.11.2012, passed by the learned XII Small Causes Judge, Chennai, in M.P.No.144 of 2012 in RCOP.No.79 of 2012.

For Petitioner : Ms.Geeta Ramaseshan

For Respondents: No appearance

ORDER

This Civil Revision Petition has been filed against the order passed by the learned XII Judge, Small Causes Court, Chennai, in M.P.No.144 of 2012 in RCOP.No.79 of 2012, dated 17.11.2012.

2 The third party in RCOP.No.79 of 2012 is the revision petitioner herein.

3 The revision petitioner herein is the wife of the

second respondent herein while, the first respondent herein is the brother of the second respondent herein. Initially, there was a matrimonial dispute between the revision petitioner and the second respondent herein. Regarding which, the second respondent herein/husband has filed a petition in O.P.No.1168 of 2008 before the Second Additional Family Court, Chennai, for divorce for multiple reasons. The said case was not prosecuted and the petition was dismissed for default. In the said petition, the revision petitioner/wife has also filed an application in I.A.No. 485 of 2010, before the II Additional Family Court, Chennai, under Order 39 Rule 1 CPC read with Sections 18, 19 and 23 of the Protection of Women from Domestic Violence Act, 2005, for not to disturb the possession and occupation of the wife/revision petitioner in the matrimonial home viz., petition premises.

4 In the said I.A., the second respondent/husband has filed counter statement stating that his father is the only owner however, given undertaking that he will not give disturbance to the revision petitioner. Since, the father of the second respondent/husband was not added as a party in the said IA.No.485 of 2010, the Family Court has dismissed the said application in IA.No.485 of 2010, stating that the petitioner should not be

disturbed.

5 Be that as it may, her possession and the occupation of the petition premisses has been recognised by none other than the second respondent herein in the judicial proceedings. Now, it appears that, the father of the second respondent has settled the suit property in favour of the first respondent herein viz., younger brother of the second respondent herein, who has filed a petition in RCOP.No.79 of 2012 against the second respondent herein and the same resulted in eviction in EP proceedings and hence, she has filed a petition in MP.No. 144 of 2012 to implead her as a proposed respondent. The said application was dismissed and hence, the Civil Revision Petition.

6 Heard the learned counsel for the petitioner.

7 As stated supra, since the possession and occupation of the petition premises, admitted by the tenant viz., Suresh Kumar, who is non other than the husband of Vedavalli/reiviosn petitioner herein, she is necessary party.

RMT.TEEKAA RAMAN., J.

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8 In view of the matrimonial dispute between the parties and considering the scope of the revision petition, this Court is expressing its opinion as to the merits of the case, otherwise, taking note of the earlier judicial proceedings and factum of possession and occupation of the revision petitioner herein, being recognised by the Family Court in the earlier order in I.A.No. 485 of 2010 in O.P.NO. 1168 of 2008, wherein, the second respondent is also a party, this Civil Revision Petition is allowed with the above observation. The order passed by the learned XII Judge, Small Causes Court, Chennai, in M.P.No.144 of 2012 in RCOP.No.79 of 2012, dated 17.11.2012, is hereby set aside. No costs. Consequently, connected miscellaneous petitions are closed.

31.01.2020

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Speaking Order:Yes/No

To
The XII Small Causes Judge, Chennai.

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