

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No.582 of 2018

and

C.M.P.No.3122 of 2018

Mr.K.Natarajan

... Petitioner

-Vs-

1.Mr.Perumal Ramkumar

2.Mrs.Natarajan Latha

3.State Bank of India,

Represented by its Branch Manager,

State Bank Road,

Coimbatore - 641018.

... Respondents

Prayer : Petition filed under Article 227 of the Constitution of India, this Civil Revision Petition against the I.A.No.255 of 2017 made in O.S.No.630 of 2015 on the file of the I Additional District Munsif Court, Coimbatore District.

For Petitioner : Mr.Mukunth for Sarvabhauman Associates

For Respondents : Mr.P.Saravana Sowmiyan, for R1.

O R D E R

This Civil Revision Petition has been filed by the second defendant challenging the order passed in I.A.No.255 of 2017 in O.S.No.630 of 2015, appointing an Advocate Commissioner to open the Bank locker standing in the joint names of the parties and to distribute the contents of the locker.

2. The suit in O.S.No.630 of 2015 has been filed by the husband. The first and second respondent were husband and wife. The marriage between the parties was dissolved by a final decree of divorce granted by the District Court of Travis, USA, on 01.12.2016. The Decree takes care of the maintenance of the wife and children. The suit in O.S.No.630 of 2015 was filed by the

husband for a permanent injunction restraining the respondents namely the wife and her father from opening the locker, which according to him, contain documents of the properties and jewels owned by the parties. The suit has been filed before dissolution of the marriage. After the dissolution of the marriage, the husband filed I.A.No.255 of 2017, seeking appointment of an Advocate Commissioner to open the locker and to hand over the jewels and documents relating to her properties to the second respondent wife and the documents relating to the properties standing in his name to him. This application was opposed on the ground that it is beyond the scope of the suit.

3. Despite having obtained a decree for divorce, the wife is also prosecuting an application filed by her for setting aside an exparte decree for divorce granted in H.M.O.P.No.384 of 2015, on the file of the Additional Family Court at Coimbatore. The learned counsel for the petitioner, namely the father of the 2nd respondent, is unable to explain the purpose for which the wife is prosecuting the said application.

4. Be that as it may, the question that is to be decided in this Civil Revision Petition is as to whether the trial court was right in appointing an Advocate Commissioner, acceding to the request of the husband. The marriage between the parties has been dissolved by a valid decree of divorce granted by the District Court, Travis. The locker, in the State Bank of India, Coimbatore Branch contains jewels and documents of the parties. The prayer in the application itself is to handover the jewels and documents of the wife, to her father and the documents relating to the property standing in the name of the husband, to be handed over to him. Therefore, I do not find any justification in the opposition to the application, except the technical objection raised by the learned counsel for the petitioner that the order is beyond the scope of the suit. The Court is having the power to mould the relief on the basis of subsequent developments. The suit for injunction was filed when the marriage was in existence. Now, there is an order dissolving the said marriage. Hence, no useful purpose would be served by keeping the suit pending. Therefore, the properties of the parties have to be distributed among them. Merely because the documents are handed over to the husband, it does not mean that the husband is the owner of the properties. Both the parties, who are claiming ownership are free to initiate appropriate proceedings to establish such rights. Moreover, keeping the locker unused and paying rent and also keeping the proceedings in a suit for permanent injunction pending forever will not resolve any of the issues that arise between the parties. I therefore see no illegality or irregularity in the order of the

Court below. There is no error apparent on the face of the record brought before this court, to enable interfere with the same under Article 227 of the Constitution of India.

5. It is made clear that mere handing over of the documents will not determine the right of the parties. It is open to either of them to establish their rights over the properties, by initiating appropriate legal proceedings.

6. With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmm

To

- 1.The I Additional District Munsif Court,
Coimbatore District.
- 2.The Section Officer,
VR Section, High Court,
Madras.

C.R.P.No.582 of 2018
and
C.M.P.No.3122 of 2018

GP(CO)
CB(07/10/2020)

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