

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2021

CORAM:

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P.(PD).No.766 of 2021
and C.M.P.No.6330 of 2021

Selvamuthukumaran

.. Petitioner

Vs.

S.Sudha

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 21.12.2020 made in I.A.No.2 of 2020 in H.M.O.P.No.178 of 2019 by the Hon'ble Principal Sub Court, Mayiladuthurai.

For Petitioner : Mr.E.Prabhu

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 21.12.2020 made in I.A.No.2 of 2020 in H.M.O.P.No.178 of 2019 by the Hon'ble Principal Sub Court, Mayiladuthurai.

2. The respondent in H.M.O.P.No.178 of 2019 which is now pending before the Principal Sub Court, Mayiladuthurai is the revision petitioner herein. The said H.M.O.P.No.178 of 2019 had been filed by the respondent / wife under Section 13(1)(1a) of the Hindu Marriage Act, 1955. The petitioner herein had joined in the proceedings and he had also filed his counter. Thereafter, he had also filed I.A.No.2 of 2020. The relief sought in the said Interlocutory Application was for a request to the Court to decide the issue of territorial jurisdiction as a preliminary issue. Counter was also filed. Documents were also marked in the course of inquiry.

3. Finally, by an order dated 21.12.2020, the learned Principal Sub Judge, Mayiladuthurai, had dismissed the said application. It is also seen

that the parties had not let in evidence to substantiate the documents which were filed by them. It is only appropriate for the learned Judge to frame issues in H.M.O.P.No.178 of 2019 and also frame an additional issue regarding jurisdiction of the Court and take the issues for trial.

4. The learned Judge after deciding jurisdiction may then move forward with the other issues. Taking it as a preliminary issue and giving a finding would not be of any assistance to either one of the parties. It is very specifically pointed out by Mr.E.Prabhu, learned counsel for the petitioner that the stand of the respondent / wife / petitioner in H.M.O.P.No.178 of 2019 was that she was temporarily residing at Mayiladuthurai. At that time she had filed the present petition, in the Principal Sub Court, Mayiladuthurai. It is the specific contention of the learned counsel that both the parties are residents at Thiruvavarur. It is also stated that a petition for restitution of conjugal rights is also pending in the Court at Thiruvavarur.

5. In view of all these facts, the finding in the Order dated 21.12.2020 the Court has territorial jurisdiction is set aside. Let the parties adduce evidence, file documents, lead evidence and prove the documents in

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the manner known to law. If the learned Judge, on the basis of evidence holds that territorial jurisdiction is lacking, then it would only be appropriate that the learned Judge directs the parties to go before the appropriate Court having proper jurisdiction.

6. With the said observations, this Civil Revision Petition is Allowed. However, this order should not stand in the way of the parties re-agitating the issue of territorial jurisdiction once again during the trial. No order as to costs. Consequently, the connected Miscellaneous Petition is also closed.

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Index : Yes / No

Web : Yes / No

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To

The Principal Sub Court,
Mayiladuthurai.

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