

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.NPD.No.1288 of 2021 &
CMP Nos.10075 to 10077 of 2021

1.R.Martin

2.Sarprasatham (Deceased)

3.R.Philomina

... Petitioners/Respondents 1 to 3

Vs

Princy Martin

... Respondent/Petitioner

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the impugned proceedings in DVC No.12 of 2021 pending on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai.

For Petitioners .. Mr.R.Prabhakaran

For Respondent ... No appearance

ORDER

The revision petition has been filed taking advantage of Article 227 of the Constitution of India questioning further pendency of the case in DVC No.12 of 2021 now pending on the file of the IX Metropolitan

Magistrate, at Saidapet, Chennai.

2. The revision petitioners herein are the respondents in DVC No.12 of 2021. Mr.R.Prabhakaran, learned counsel for the revision petitioners first pointed out the age of the first revision petitioner and that of the respondent herein and stated that they had been in marital relationship for over 30 years and the petition seeking protection under the Domestic Violence Act had been preferred by the respondent. The learned counsel therefore assailed the *bona fide* of the respondent in filing such an application. The learned counsel thereafter drew the attention of this Court to the fact that there is a period of limitation stipulated in the Act namely the petition should be filed within 12 months from the date of separation and it is the contention of the learned counsel that the first petitioner herein and the respondent had been separated for over 20 months. But however, there is no proof for such separation and no documents to evidence such separation has been filed. When this was pointed out, that ground was dropped by the learned counsel.

3. The other ground urged by the learned counsel was by drawing the Court's reference to Schedule A which had been given to the petition

namely DVC No.12 of 2021. Schedule A consists of a string of properties. The learned counsel stated that since there are many properties, the DVC Application cannot be maintained and it could be maintained only with respect to a particular property which is claimed as being the residence of the respondent herein. However, the respondent herein has only alleged that all those properties in Schedule A have been sold away by the first petitioner herein.

4. It is thereafter stated by Mr.Prabhakaran that the only intention behind filing of the application in DVC No.12 of 2021 was that the first petitioner herein wanted to convert the available properties as a senior citizen's home which was objected to by the respondent and therefore, she had approached the Magistrate Court.

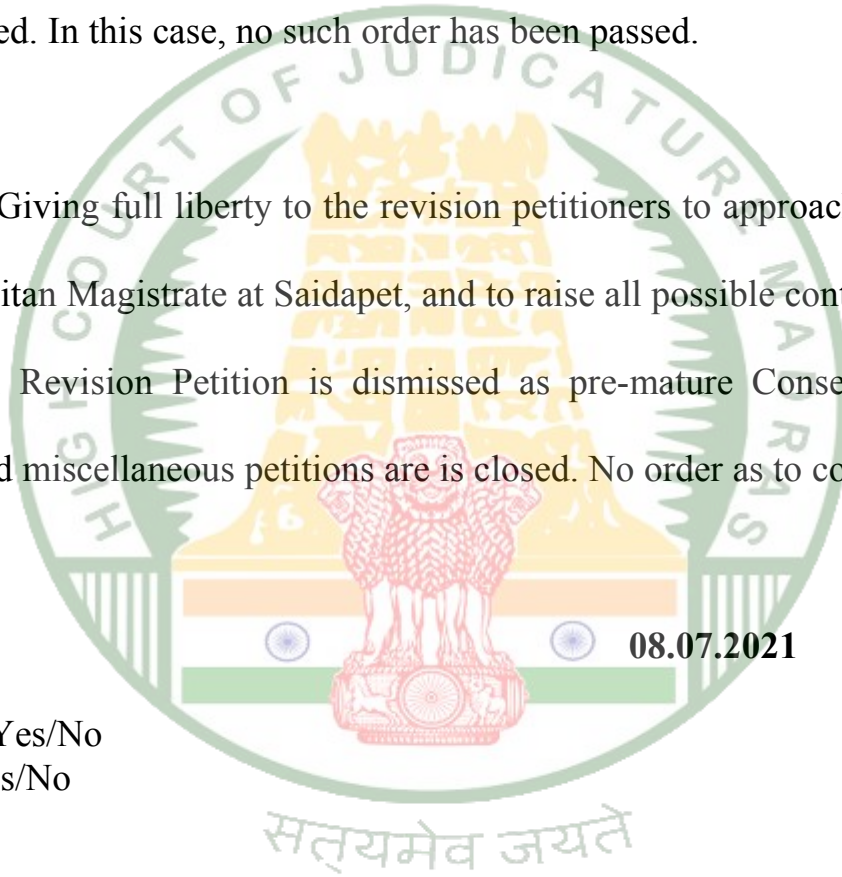
5. All these are facts which can be determined only in the presence of both the parties before the Magistrate Court. Where these facts can be raised, and where the facts can be disputed and then issues which arise can be determined. I am confident that the IX Metropolitan Magistrate, Saidapet, would examine all the facts put forth by the revision petitioner.

The petitioners have not approached the Magistrate Court still. They

should approach the Magistrate Court and file relevant documents, file necessary affidavits to prove their *bona fide* and thereafter urge the learned Magistrate to pass a judicial order. Only when the Court passes a judicial order, can there be further re-examination of the facts determined. In this case, no such order has been passed.

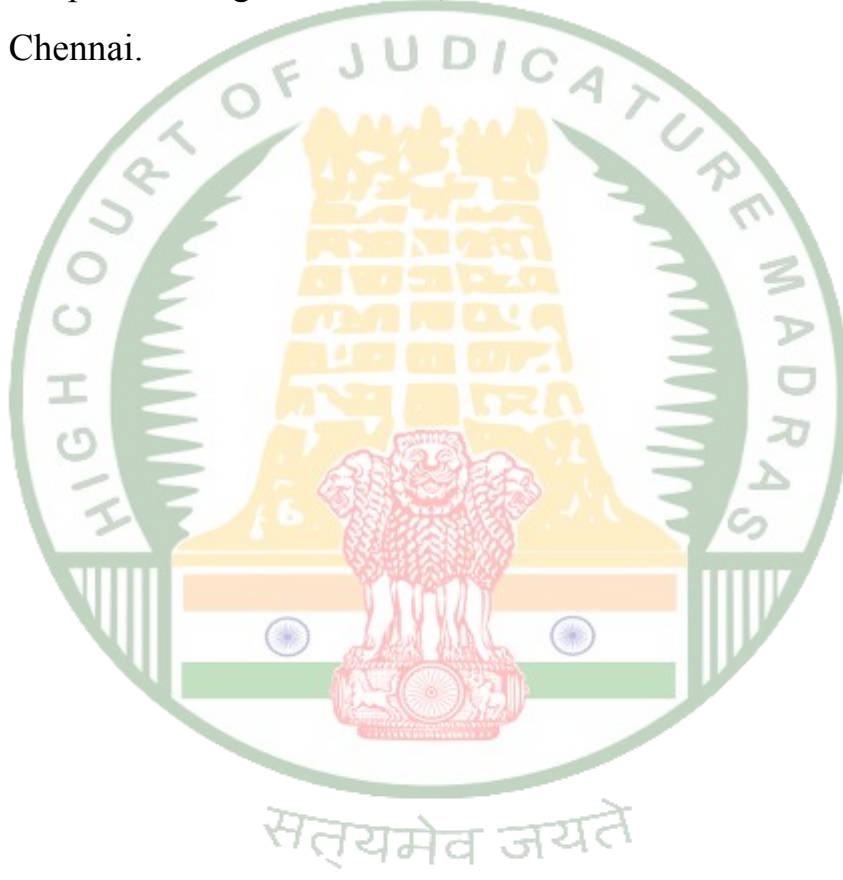
6. Giving full liberty to the revision petitioners to approach the IX Metropolitan Magistrate at Saidapet, and to raise all possible contentions, the Civil Revision Petition is dismissed as pre-mature. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Internet: Yes/No
Index: Yes/No
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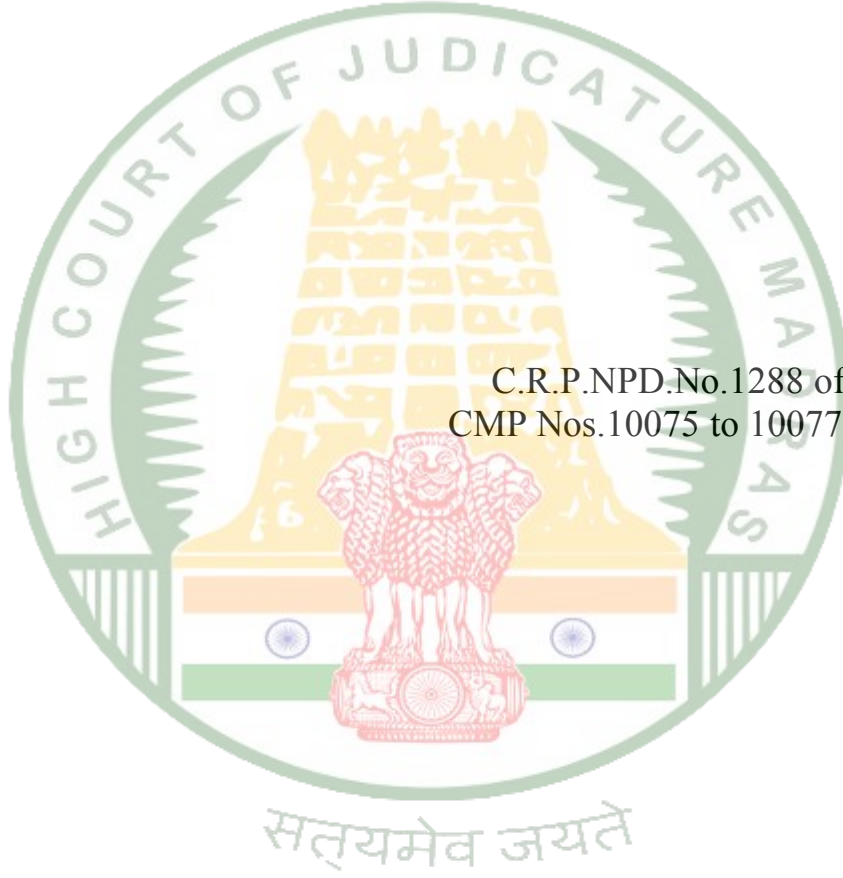
To
The IX Metropolitan Magistrate Court,
Saidapet, Chennai.



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C.V.KARTHIKEYAN,J.

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