



C.R.P(PD).No.1888 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(PD).No.1888 of 2022
and C.M.P.No.9636 of 2022

1.Sumithra
2.Minor Eshin

... Petitioners

..Vs..

1.S.Malathi @ Usha
2.S.Suresh

... Respondents

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in O.S.No.61 2016 pending on the file of the VI Additional Family Court, Chennai as the first respondent/plaintiff has got no right to invoke the jurisdiction of the Family Court under Section 7 of the Family Court Act in the interest of justice.

For Petitioner : Mr.R.Ganesan

O R D E R

This Civil Revision Petition has been preferred to strike off the suit in O.S.No.61 of 2016 pending on the file of the VI Additional Family Court, Chennai.



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2.The petitioners are the defendants 2 and 3 in the suit filed by the first respondent/plaintiff in O.S.No.61 of 2016. The first respondent /plaintiff claims herself as the wife of the second respondent/first defendant and she has filed a suit for the relief of permanent injunction in the Family Court, Chennai.

3.The learned counsel for the petitioner submitted that as per Section 7(1)(c) of the Family Courts Act, 1984, a civil suit can be filed only in respect of the properties owned by the spouses and not against 3rd parties like the petitioner herein.

4.On a perusal of the plaint averments, it is seen that the first respondent/plaintiff has alleged that she has supplied the financial resources for purchase of the suit property with a belief that the property will be registered in the name of her husband/2nd respondent/first defendant.



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5.The learned counsel for the petitioner further submitted that those allegations are against the provision of Benami Transactions (Prohibition) Act, 1988, and the suit is not maintainable. He also attracted the attention of this Court to the criminal Court's judgment made in C.C.No.1553 of 2018, dated 08.03.2022, which is a private complaint filed by the first respondent/husband.

6.All these matters are to be taken as defence of the petitioner in the suit pending before the Family Court, Chennai. So far as the suit is concerned, it has been taken on file based on the allegation that the source for purchase of the property is by way of selling the jewels of the first respondent. The merits of the case cannot be looked into at this stage. Had the first respondent filed a suit against this civil revision petitioner alone without impleading her husband as the first defendant, the suit could have been clearly barred under Section 7(1)(c) of the Family Courts Act.



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7.Under such circumstances, I find no ground for interference and the petitioners are at liberty to take up their defence before the Family Court.

8.Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

21.06.2022

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Index:Yes No

Speaking Order:Yes/No

To

- 1.The VI Additional Judge,
Family Court, Chennai.
- 2.The Section Officer,
VR Section, Madras High Court,
Chennai.

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R.N.MANJULA,J.

Vkr

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