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CRP.No.3519 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.3519 of 2022
and
CMP.No.18721 of 2022

Dr.G.Anand Sekar

... Petitioner

Vs.

Dr.T.Hemalatha

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and final order of the VI Additional Principal Family Court, Chennai, dated 27.09.2022 and made in I.A.No.7 of 2022 in O.P.No.1291 of 2020.

For Petitioner : Mr.T.Gowthaman



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ORDER

This Civil Revision Petition is filed, challenging the order passed by the VI Additional Principal Family Court, Chennai, seeking dismissal of the petition for divorce filed by the respondent/wife in HMOP.No.1291 of 2020.

2. The respondent/wife filed a petition seeking divorce on the ground of cruelty against the petitioner/husband in HMOP.No.1291 of 2020 on the file of the VI Additional Principal Family Court, Chennai. In the original petition, the respondent/wife had mentioned “H-48/S2, Thendral Apts, Thiruvalluvar Nagar, Thiruvanmiyur, Chennai 600 041” as her address. According to the respondent/wife, the marriage was solemnised on 27.11.2014 at Puducherry and after the marriage, they started living together at the residence of the respondent in Injambakkam, Chennai and thereafter, they moved to Mylapore, Chennai, where they have last resided together from 2017 upto July



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2018. Hence, according to the respondent, they last resided together at Mylapore within the territorial limits of Family Court, Chennai and as per the present address, she is residing at Thiruvanmiyur, Chennai, also within the territorial limits of Family Court, Chennai.

3. The petitioner herein filed I.A.No.7 of 2022 for dismissal of the main OP on the ground that the respondent had given a wrong address as if she was residing at Thiruvanmiyur, Chennai-41, in order to invoke the territorial jurisdiction of the Family Court, Chennai. It was his specific case, that the actual address of the respondent is No.2, 2nd Street, Shalimar Gardens, Near Pon Vidhyasaram School, Injampakkam, Chennai-600 115. According to the petitioner, Injampakkam area falls out of the territorial jurisdiction of Family Court, Chennai, and therefore, the petition for divorce filed by the respondent/wife before the Family Court, Chennai, ought not to have been entertained by that Court due to lack of territorial jurisdiction.



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4. The Court below, after hearing rival contentions, dismissed the I.A.No.7 of 2022 by holding that the objection as regards the territorial jurisdiction raised by the petitioner herein is mixed question of law and facts. Hence, it can be decided along with other issues in the main OP. Aggrieved by the said order, the petitioner has come up by way of this revision.

5. The learned counsel for the petitioner by taking this Court to the averments of the petitioner found in the affidavit filed in support of I.A.No.7 of 2022 submitted that, in the petition for restitution of conjugal rights filed by the petitioner, summons were taken to the address given by the respondent in her petition for divorce and the said summons were returned with an endorsement “whereabouts not known”. It was further averred by the petitioner that, finally the respondent/wife had received the postal cover containing the summons on 26.03.2022 from the Post Office on information given by the Post Man with regard



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to the cover. Therefore, it is the contention of the learned counsel for the petitioner that the respondent is not residing at Thiruvannamipur, Chennai address, but she is actually residing at Injampakkam, Chennai, out of the territorial limits of Family Court, Chennai.

6. The Court below in its order recorded that the respondent/wife in support of her claim had produced the driving license to prove her residential address. Based on the copy of driving license produced by the respondent/wife, the Court below prima facie found that she had proved her residence at Thiruvannamipur, within the territorial limits of the Family Court, Chennai.

7. It is also pertinent to note that as per the averments found in the main OP both the parties last resided together at Mylapore, Chennai, within the territorial limits of the Family Court, Chennai. In fact, in the affidavit filed in support of I.A.No.7 of 2022, it is admitted that, both of them resided together at Mylapore for the convenience of



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his wife/respondent to pursue her post graduation studies in M.S., (General Surgery) at St. Isabel's Hospital, Mylapore. Therefore, it is clear that the petitioner and the respondent last resided at Mylapore. Further, even as per the averments of the petitioner/husband, they last resided together at Mylapore within the territorial limits of Family Court, Chennai. Therefore, I do not find any illegality or irregularity in the order passed by the Court below.

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

07.11.2022

Index : Yes / No
Internet : Yes / No
dna

To

The VI Additional Principal Family Court, Chennai.



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