



C.R.P. (PD) No.4483 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.10.2022

CORAM:

**THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**C.R.P. (PD) No.4483 of 2017**

Rajalakshmi  
W/o Rangarajan

. . . Petitioner

Vs.

Rangarajan  
S/o Kaliyan

. . . Respondent

**PRAYER:** Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the fair and decretal order in I.A.No.54 of 2017 in H.M.O.P.No.9 of 2017 dated 04.10.2017 on the file of the Sub Judge, Neyveli.

For Petitioner : Mr.N.Suresh  
For Respondent : No appearance

**ORDER**

The revision petitioner herein is the wife and the respondent/husband has filed a petition in H.M.O.P.No.9 of 2017 on the file of the Sub-Court, Neyveli,



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for the relief of divorce.

2.During the pendency of the above said proceedings, the petitioner/wife filed an application in I.A.No.54 of 2017, seeking permission of the Court to file the additional counter statement. The said application was objected by the respondent/husband. On hearing both sides, the learned Trial Judge dismissed the application, holding that the petitioner/wife has not stated, under which provision of law, she is entitled for the relief as stated in the affidavit filed in support of the Interlocutory Application. Challenging the said finding, the petitioner/wife has preferred the present Civil Revision Petition.

3.The learned counsel for the petitioner/wife submits that for all these years, the petitioner was deserted by the respondent/husband and she is living with the child, in her parents home, without any source of income. She is ready for re-union, but the respondent/husband is not interested to take care of them. Therefore for restitution of her conjugal rights, she wants to file the additional written statement.



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4. On perusal of records, it is seen that the Court below has dismissed the application on the ground that the petitioner has quoted wrong provision of law. Though the learned counsel for the petitioner admits that he has quoted a wrong provision of law, that should not be put against the petitioner while deciding her case. As such, the petitioner/wife is entitled to make such counter claim for the relief of restitution. Further, the Hon'ble Supreme Court on several occasions has held that quoting a wrong provision of law will not dis-entitle the party to the relief. Therefore, the order dated 04.10.2017 passed in I.A.No.54 of 2017 on the file of the Sub Judge, Neyveli, is set aside and the Civil Revision Petition stands allowed. The I.A.No.54 of 2017 filed by the petitioner also stands allowed and she is permitted to file additional counter statement. On receipt of the additional counter statement, the learned Sub Judge, Neyveli, is directed to dispose of the Original Petition in H.M.O.P.No.9 of 2017, within a period of six months thereafter. No costs.

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Index : Yes/No  
Internet : Yes/No  
Speaking order/Non-speaking order

To

- 1.The Sub Judge, Neyveli.
- 2.The Section Officer, V.R.Section, High Court of Madras.



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**T.V.THAMILSELVI, J.**

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