



WEB COPY



CRP(MD).No.727 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP(MD)No.727 of 2022

and

C.M.P(MD).Nos.2958, 2959 and 2960 of 2022

1.M.Mohamed Mustaq

2.Sharmila Roshan

: Petitioners/Respondents 2 & 3

Vs.,

1.K.Sabitha Barveen

2.Minor K.Muhammad Rayhan

rep.,by mother 1st respondent

: Respondents/Petitioners

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records filed in DVC.No.2 of 2022 on the file of the Judicial Magistrate, Uthamapalayam, Theni District and quash the same.

For Petitioners : Mr.S.Kanmani Annamalai

For Respondents : Mr.P.Muthuvijayapandian

ORDER

This Civil Revision Petition is filed as against the proceedings initiated by the respondents herein in D.V.C.No.2 of 2022 before the learned Judicial Magistrate, Uthamapalayam, Theni District. The petitioners are in-laws of the first respondent.



2. Though the petitioners have raised a ground of jurisdiction, they have not substantiated the same as to how the concerned Judicial Magistrate, is not having the jurisdiction to take up the complaint of the respondent.

3. Further, Section 27 of the Protection of Women from Domestic Violence Act, 2005, deals with the jurisdiction, which reads as follows:

27. Jurisdiction – (1) The Court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which –

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act (2) Any order made under this Act shall be enforceable throughout India.

4. From the reading of the above said provision, it is clear that the petition under the Domestic Violence Act can be filed in a Court where the “person aggrieved” permanently or temporarily resides or carries on business or is employed.



5. In the present case, the respondents herein are residing at Uthamapalayam Taluk, Theni District. Therefore, the learned Judicial Magistrate, Uthamapalayam, Theni District, is the competent Court to entertain the complaint filed by the respondents under Domestic Violence Act. Therefore, the objection raised by the petitioners that the learned Judicial Magistrate, Uthamapalayam, Theni District, is not having jurisdiction, cannot be acceptable.

6. If the petitioners are having any grievance that they have been unnecessarily added as party to the proceedings, it is open to them to file an application before the concerned Court to delete their name from the proceedings.

7. Accordingly, the Civil Revision Petition is disposed of in the following terms:

(i) If the petitioners are having any grievance that they have been unnecessarily added as a party to the proceedings, it is open to them to file an application before the learned Judicial Magistrate, Uthamapalayam, Theni District, to delete their name and if any such application is filed, the learned Judge shall decide the same, as per the decision of the Hon'ble Supreme Court in ***Kunapareddy v. Kunapareddy Swarna Kumari***, reported in ***(2016) 11 SCC 774***.



CRP(MD).No.727 of 2022

(ii) If the petitioners are represented through a counsel, the learned Judge shall not insist on the personal appearance of the petitioners. However, the petitioners shall appear before the Court as and when their presence is required by the Court.

(iii) The learned Judicial Magistrate, Uthamapalayam, Theni District, is directed to dispose of D.V.C.No.2 of 2022 as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petitions are closed

30.11.2022

Index : Yes / No

Internet : Yes / No

Rmk

To

The Judicial Magistrate, Uthamapalayam, Theni District.



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CRP(MD).No.727 of 2022

B.PUGALENDHI, J.

Rmk

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