



C.R.P (MD) No.1557 of 2022

2.The petitioner filed a petition before the Family Court, Virudhunagar at Srivilliputhur for dissolution of marriage against the respondent under Section 7(1)(b) of the Family Courts Act, 1984. The said petition was returned by the trial Court on 05.02.2022 stating that the petition is not maintainable before the Family Court. The petitioner re-presented the same along with the judgment of a Division Bench of this Court in Settu Vs Reshma Sulthana, reported in 2021(5) CTC 527. Even thereafter the Family Court returned the petition without numbering the same. Therefore this civil revision petition is filed with the above prayer.

3.The learned Counsel for the petitioner submits that the petitioner is a Muslim and he has filed the above petition under Section 7(1)(b) of the Family Courts Act, in view of the recent enactment of Muslim Women (Protection of Rights and Marriage) Act, 2019 pronouncement of Talaq by Muslim husband upon his wife shall be void and illegal and therefore, the only remedy available to the petitioner is to file a petition under Section 7(1)(b) of the Family Courts Act. Accordingly the petitioner has filed the above



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petition before the Family Court, but the same was returned that the petition is not maintainable before the Family Court. Though the petitioner has re-presented the petitioner along with the judgment of a Division Bench of this Court in Settu Vs Reshma Sulthana, reported in 2021(5) CTC 527, the Family Court without considering the said judgment has again returned the petition.

4.Heard the learned Counsel for the petitioner and perused the material placed on record.

5.A Division Bench of this Court in **Settu Vs Reshma Sulthana**, reported in **2021(5) CTC 527**, has held as follows:

"14. Mere absence of any provisions in the dissolution of Muslim Marriages Act, 1939 cannot disentitle the appellant from seeking dissolution of marriage under the common law or under the Special Act, namely, The Family Courts Act, 1984."

6.In view above dictum laid down by the Division Bench of this Court the learned Judge, Family Court, Virudhunagar at Srivilliputhur is directed to number the petition filed



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by the petitioner, if it is otherwise in order and proceed further.

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7.The Civil Revision Petition is disposed of on the above terms. No costs.

02.09.2022

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Note: Registry shall return the original papers.

To

The Judge,
Family Court,
Virudhunagar @ Srivilliputhur.



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B.PUGALENDHI , J.

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