



C.R.P. Nos. 3944, 3949 & 3954 of
2023

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C.R.P. Nos. 3944, 3949 & 3954 of 2023

T.V.THAMILSELVI, J.

These matters are taken up for hearing under the caption “For Being Mentioned” today at the instance of the learned counsel for the revision petitioner.

2. The learned counsel for Revision Petitioner would submit that this Court by an order dated 20.10.2023 allowed the above C.R.P.s. However, the learned counsel would submit that as there is some modification in paras 6 and 7 of the said order, he prayed to modify the same. Accordingly, the matters are listed today.

3. Heard the contentions of learned counsel for revision petitioner and perused the order.

4. Considering his submissions, paras 6 and 7 of the order shall be substituted as follows :-



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“6. Furthermore, with regard to the observation made by the trial judge that the “bills prima facie proved” and that observation ought not to have been made during the pendency of O.P. proceedings, that can be done only after completion of trial, so, the trial judge is not entitled to make such observation. Therefore, the observation made by the trial judge is ordered to be removed.

7. On perusal of records, it would reveals that the respondent wife filed an application for return of jewels and the same is ordered to be tried along with main O.P. To disprove her claim, the Revision Petitioner is entitled to raise objections with regard to the validity of the bills and the same can be considered only after completion of trial. So, if sufficient opportunity is not given to the Revision Petitioner, his valuable right to defend the case will be defeated. Accordingly, these Civil Revision Petitions are disposed of. Considering the entire facts, after completion of evidence, the



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applications were repeatedly filed as per the objections raised by the Revision Petitioner. So, the respondent wife is directed to cooperate with the trial proceedings. Furthermore, the trial judge is also directed to complete the trial trying along with I.A.Nos. 9, 10 and 11 of 2023 and dispose the case within a period of three months from the date of receipt of copy of this order. No costs. ”

5. Registry is directed to incorporate above correction in the Order of this Court in C.R.P.Nos. 3944, 3949 & 3954 of 2023 dated 20.10.2023 and issue fresh order copy to the Revision Petitioner.

16.11.2023

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T.V.THAMILSELVI, J.

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16.11.2023



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos.3944, 3949 & 3954 of 2023

T.Sivanantham,
S/o. Thangavel

... Petitioner in
all C.R.P.s

Versus

V.Monica,
D/o. Vijay Kumar

... Respondent in
all C.R.P.s

PRAYER in C.R.P. No. 3944 of 2023 : Civil Revision Petition

is filed under Art. 227 of Constitution of India, praying to set aside the fair and Decreeal order dated 24.08.2023 passed in I.A.No.11 of 2023 in H.M.O.P. No.91 of 2022 on the file of the Family Court, Dharmapuri.

PRAYER in C.R.P. No. 3949 of 2023 : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and Decreeal order dated 24.08.2023 passed in I.A.No.10 of 2023 in



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H.M.O.P. No.91 of 2022 on the file of the Family Court, Dharmapuri.

PRAYER in C.R.P. No. 3954 of 2023 : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and Decreeal order dated 24.08.2023 passed in I.A.No.9 of 2023 in H.M.O.P. No.91 of 2022 on the file of the Family Court, Dharmapuri.

For Petitioner in
all C.R.P.s : Mr.T.Saikrishnan

For Respondent in
all C.R.P.s : Mr.N.Vijaya Basker

COMMON ORDER

The Revision Petitioner herein is the husband and he filed these Civil Revision Petitions challenging the impugned orders passed in I.A.Nos.11, 10 and 9 of 2023 in H.M.O.P.No.91 of 2022 on the file of Family Court, Dharmapuri respectively.

2. Since the relief sought challenging the orders passed by the trial judge, notice to the respondent is dispensed with.

3. Before the trial court, the respondent wife filed the aforesaid applications to reopen, recall P.W.1 and to permit her to mark the



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documents in order to prove the jewels purchased by her father. Those applications were strongly objected by the Revision Petitioner herein stating that after completion of evidence, second time, she filed the said applications to reopen and recall and only in order to fill up the lacuna, she came forward with the said applications but the same cannot be entertained. However, under Order 18 Rule 17 and Sec. 151 of C.P.C., it is the discretion of the court to examine the witness with great care and in exceptional circumstances, opportunity is to be given to the respondent. Considering both side submissions, the trial judge held that the duty is casted upon the respondent/wife to prove the fact that he was in possession of jewels, to prove the same, now, she produced the bills and the respondent is having sufficient opportunity to cross-examine the petitioner regarding his counter averments and allowed those applications. Challenging the said findings, the Revision Petitioner filed the present Civil Revision Petition.

4. The learned counsel for Revision Petitioner would submit that to fill up the lacuna, after completion of evidence, the respondent



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wife came forward with those applications by producing the bills, which ought not to have entertained, but without considering the same, the trial judge allowed the said applications. Hence, he prayed to set aside the findings of the trial judge.

5. By way of reply, the learned counsel for respondent wife would submit that already she filed applications in I.A.No.4 of 2023 seeking to return all the jewels and the said application is also to be tried along with main O.P. In order to prove the owning of jewels, she produced bills obtained from Tanishq jewellery with proper authentication and if opportunity is not given to her, her valuable right to defend the case will be defeated. Therefore, the trial judge rightly allowed those applications and prayed to dismiss these Civil Revision Petitions.

6. Furthermore, with regard to the observation made by the trial judge that the “bills prima facie proved” and that observation ought not to



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have been made during the pendency of O.P. proceedings, that can be done only after completion of trial, the trial judge is entitled to make such observation. Therefore, the observation made by the trial judge is ordered to be removed.

7. On perusal of records, it would reveals that the respondent wife filed an application for return of jewels and the same is ordered to be tried along with main O.P. To disprove her claim, the Revision Petitioner is entitled to raise objections with regard to the validity of the bills and the same can be considered only after completion of trial. So, if sufficient opportunity is not given to the Revision Petitioner, his valuable right to defend the case will be defeated. Hence, the order passed by the trial judge is liable to be set aside. Accordingly, these Civil Revision Petitions are allowed and the orders passed by the trial judge in I.A.Nos. 9 to 11 of 2023 is set aside. Considering the entire facts, after completion of evidence, the applications were repeatedly filed as per the objections raised by the Revision Petitioner. So, the respondent wife is directed to cooperate with the trial proceedings. Furthermore, the trial judge is also



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directed to complete the trial and dispose the case within a period of three
months from the date of receipt of copy of this order. No costs.

20.10.2023

Index : Yes/No
Speaking Order : Yes/No
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To

Family Court Judge, Dharmapuri.

T.V.THAMILSELVI, J.



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20.10.2023