



C.R.P.(MD) No.878 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

C.R.P.(MD) No.878 of 2023

and

C.M.P.(MD) No.4019 of 2023

1.M.Muthuraj

2.M.Mariappan

3.M.Bagyalakshmi

4.Senthil Valli

DVOP wrongly stated as Jayanthi

... Petitioners

Vs.

M.Abirami Devi

... Respondent

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records pertaining to D.V.O.P.No.10 of 2023 pending on the file of the learned Judicial Magistrate, Additional Mahila Court at Madurai and to quash the same as illegal.

For Petitioners : Mr.U.Karunakaran

For Respondent : M/s.Lakshmi Gopinathan
for M/s.Polax Legal Solutions



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ORDER

This Civil Revision Petition has been preferred by the petitioners for quashing the proceedings in D.V.O.P.No.10 of 2023 filed by the respondent against them before the Judicial Magistrate Court, Additional Mahila Court, Madurai.

2. The first petitioner is the husband of the respondent. The second and third petitioners are the parents-in-law and the fourth respondent is the sister-in-law of the respondent.

3. According to the petitioners, the marriage between the first petitioner and the respondent was solemnized on 11.09.2019 as per Hindu rites and customs and after their marriage, they were living at Jagathambal Street, Vijayalakshipuram, Ambattur, Chennai. It is submitted the respondent lived in the matrimonial home only for 4 months and due to some matrimonial discord, on 20.01.2020, she left the matrimonial home deserting the first petitioner.

4. It is submitted that the respondent has unnecessarily dragged the fourth petitioner i.e., the sister of the first petitioner in the D.V.O.P.



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proceedings, who is living with her family separately at a different place and in no point of time, she has lived with the respondent under the same roof. It is further submitted that in the D.V.O.P., the name of the fourth petitioner has been wrongly mentioned with a malafide intention to drag the fourth petitioner in the D.V.O.P. proceedings and to wreck vengeance against the petitioners.

5. It is further submitted that since the first petitioner filed H.M.O.P.No. 225 of 2022 on the file of the Sub Court, Poonamallee for divorce, the respondent filed the said D.V.O.P. as an afterthought and counterblast to the divorce petition which was filed after three years after the respondent deserted the matrimonial home.

6. It is further submitted that the second and third petitioners are senior citizens aged about 75 years and 72 years respectively and only in order to take revenge against the first petitioner, she has impleaded all the petitioners in the D.V.O.P. proceedings.

7. The learned counsel for the petitioners would submit that as per Section 2(s) of the Protection of Women from Domestic Violence Act, 2005, the shared household is the basis of invoking jurisdiction under the said Act.



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However, in the present case, there is no existence of a shared household/domestic relationship in respect of the fourth petitioner along with the respondent and therefore, if D.V.O.P. proceedings is permitted to be proceeded further as per the complaint lodged by the respondent, it would be abuse of the process of law and therefore, the D.V.O.P. proceedings is liable to be quashed.

8. On the other hand, the learned counsel for the respondent would submit that she has no serious objection with regard to quashing of D.V.O.P. proceedings as against the fourth petitioner. However, the first to third petitioners had shared household along with the respondent and there are some allegations against them in the complaint filed by the respondent. Therefore, they are liable to be subjected for trial in the D.V.O.P. proceedings and the D.V.O.P. proceedings cannot be quashed at this juncture against them.

9. Heard on both sides. Perused the records.

10. With regard to the fourth petitioner, there is no evidence that she had shared household along with the respondent. The D.V.O.P. proceedings can be initiated only against the persons who had shared household along with the



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wife. Section 2(s) of the Protection of Women from Domestic Violence Act,

2005 reads as under:-

2. Definitions.

(a)

.....

(s) “shared household” means a household where the person aggrieved lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent, or owned or tenanted by either of them in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has any right, title or interest in the shared household.

11. On perusal of the complaint, there is no specific allegations against the fourth petitioner that she has subjected the respondent to domestic harassment. Moreover, the contention of the petitioners is that the fourth petitioner is living separately in her matrimonial house and in any point of time, she was not required to live with the respondent. In view of the above, this Court quashes the proceedings as against the fourth petitioner alone.



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12. As far as the first to third petitioners are concerned, there are serious allegations against them in the complaint lodged by the respondent and therefore, it is made clear that this Civil Revision Petition as against the first to third petitioners stands dismissed. However, considering the age of the second and third petitioners, the personal appearance of them in the D.V.O.P. proceedings is dispensed with for regular hearings. They shall appear before the Court as and when their physical appearance is required.

13. Considering the facts and circumstances of the case, the learned Judicial Magistrate, Additional Mahila Court, Madurai is directed to dispose the D.V.O.P.No.10 of 2023, on merits, expeditiously, within a period of 6 months from the date of receipt of a copy of this order.

14. Accordingly, this Civil Revision Petition is disposed of. No cost. Consequently, connected Miscellaneous Petition is closed.

16.08.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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To : The Judicial Magistrate,
Additional Mahila Court, Madurai.



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K.GOVINDARAJAN THILAKAVADI, J.

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