



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Tuesday, the Twenty Seventh day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice C.SARAVANAN

CMP(MD). No.7480 of 2023 and 7481 of 2023

IN

CRP(MD). No.744 of 2022

1. Preethi Ajay. K

2. Minor.Eshaan @ Ananth Kumar ,
Represented by his mother Mrs .Preethi k.AJAY .

... Petitioners/ Respondents 1 & 2

Vs

1 K.Ajay

2 Nirmal

... Respondent 1& 2/ Petitioners 1 & 2

3 S.Vijayameena Devi,

...3rd Respondent/ 3rd Respondent

Prayer in CMP(MD)7480 OF 2023 :-

This Civil Miscellaneous petition filed under 148 of code of civil procedure to extend the time fixed by this Honourable Court for disposing the case in D.V.O.P. No. 30/2021 by order dated 30.11.2022 in C.R.P.(MD). No. 744 of 2022 passed by this Honourable Court and direct the Additional Mahila Court at Magistrate Level, Madurai to provide sufficient opportunity to the petitioner to conduct the trial and pass such other appropriate order as this Honourable Court may deem fit and thus



Prayer in CMP(MD). 7481/ 2023 :

To stay all further proceedings in D.V.O.P. No. 30/2021 on the file of the Additional Mahila Court at Magistrate Level, Madurai pending disposal of the above Civil Miscellaneous Petition and pass such other appropriate order as this Honourable Court may deem fit and thus render justice.

Prayer in CRP(MD)744 OF 2022

This Civil Miscellaneous petition filed under Article 227 of the Constitution of India to call for the records pertaining to the case in DVOP.NO 30 of 2021 pending on the file of the Learned Additional Mahila Court at Magistrate Level and set aside the same in so far as the petitioner are concerned.

ORDER:-

This Revision/ Appeal Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Ms. D. Shanmugaraja Sethupathy, Advocate for the Petitioner and of Ms. N. Dilipkumar, Advocate for the respondent(s), this Court made the following order:

The present civil miscellaneous petition has been filed by the petitioner to extend the time fixed by this Court for disposing the case in D.V.O.P.No.30 of 2021 by order dated 30.11.2022 in CRP(MD)No.744 of 2022 and to direct the Additional



Mahila Court at Magistrate Level, Madurai to provide sufficient opportunity to the petitioner to conduct the trial.

2. By an order, dated 30.11.2022, this Court had disposed of CRP(MD)No.744 of 2022 filed by the respondents 1 and 2 herein with the following observations:

"4. This Civil Revision Petition is filed challenging the proceedings under the Protection of Women from Domestic Violence Act and not filed on the ground of lack of jurisdiction. Therefore, this Civil Revision Petition is not maintainable before this Court, as per the decision rendered by the Hon'ble Full Bench (cited supra). However, this Court is inclined to dispose of the Civil Revision Petition in the following terms:

(i) If the petitioners are having any grievance that they have been unnecessarily added as parties to the proceedings, it is open to them to file an application before the learned Magistrate to delete their names and if any such application is filed, the learned Magistrate 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.

(ii) If the petitioners are represented through a counsel, the learned Magistrate 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 Magistrate is directed to dispose of DVOP.No.30 of 2021 as expeditiously as possible preferably within a period of five months from the date of receipt of a copy of this order.

3. A reading of the above order indicates that although the Court had disposed of the civil revision petition filed by the respondents 1 and 2 herein, the Court has not tied the parties to five months period. The Court has provided discretion to the Additional Mahila Court, Magistrate Level, Madurai to dispose of the D.V.O.P.No.30 of 2021 pending on its file filed by the petitioner as expeditiously as possible preferably within a period of 5 months. The five months period has been expired.

4. In the proceeding, the third respondent had filed C.M.P.No.337 of 2023 to delete her name, which came to be ordered on 02.06.2023. On the other hand, the petitioner appears to have filed C.M.P.No.388 of 2022 for appointing an Advocate Commissioner to take inventory of stock of the jewellery in the bank, which has been dismissed by the Court by its order, dated 26.06.2023. The trial is yet to commence in D.V.O.P.No.30 of 2021. The petitioner may have a right to set aside the order passed in C.M.P.No.337 of 2023 deleting the name of the third respondent as one of the respondent in D.V.O.P.No.30 of 2021 and also have a right to set aside the order passed in C.M.P.No.388 of 2023 on 26.06.2023 interfered by the appellate

Court.

<https://www.mhc.tn.gov.in/judis>



5. In view of the above, the present Civil Miscellaneous Petition stands disposed of by directing the Additional Mahila Court, Magistrate Level, Madurai to defer the trial in D.V.O.P.No.30 of 2021 by a period of four weeks from the date of receipt of copy of this order. Meanwhile, the Court below is directed to furnish the certified copy of the order, dated 02.06.2023 and 26.06.2023 so that the petitioner can work out the appellate remedy, if any. Both the parties are directed to co-operate with the Court for speedy disposal D.V.O.P.No.30 of 2021 as ordered by this Court on 30.11.2022. Consequence, connected CMP(MD)No.7481 of 2023 is closed.

Sd/-

Assistant Registrar(CS II)

// True Copy //

/08/2023

Sub Assistant Registrar(CS)

TO

1. THE JUDICIAL MAGISTRATE,

ADDITIONAL MAHILA COURT AT MAGISTRATE LEVEL,MADURAI

+ 1 cc to Mr. N.Dilipkumar sr 31500

ORDER DATED : 27/06/2023

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ORDER

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CMP(MD). No.7480 of 2023 and 7481 of 2023

IN

CRP(MD) NO 744 of 2023

Giving direction and etc.

as stated within.

MGJ(07.08.2023) 5P 3C

Madurai Bench of Madras High Court is issuing certified copies in this format from