



C.R.P.(MD)No.3215 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3215 of 2023
and
C.M.P.(MD)No.16573 of 2023

1. P.Balamurugan

2.G.Shanmugasundari

3. P.Murugesan

4.P.Deivanai : Petitioners/Petitioners/Respondents

Vs.

K.Keethiga : Respondent/Respondent/Petitioner

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned District Munsif cum Judicial Magistrate, Thiruppuvanam, Sivagangai District to number the unnumbered I.A. in A.No.4981 of 2023 in D.V.C.No.4 of 2023, dated 09.11.2023 and dispose it on merits within a time period as fixed by this Court.



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For Petitioners

: Mr.J.Selvin Rajesh

ORDER

The Civil Revision Petition has been filed, invoking Article 227 of the Constitution of India, seeking orders to direct the learned District Munsif cum Judicial Magistrate, Thiruppuvanam, Sivagangai District to number the unnumbered I.A. in A.No.4981 of 2023 in D.V.C.No.4 of 2023, dated 09.11.2023 and dispose it on merits within a time period as fixed by this Court.

2. The respondent has filed a petition under Section 12 of the Domestic Violence Act against her husband and in-laws. The learned Magistrate, after taking the petition on file in D.V.C.No.4 of 2023, has issued notice to the petitioners.

3. Admittedly, the first petitioner is the husband; second and fourth petitioners are the sister-in-laws and the third petitioner is the brother-in-law of the respondent.



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4. The learned counsel for the petitioners would submit that the revision petitioners, after receiving the notice from the jurisdictional Magistrate Court, appeared before the concerned Court on 25.09.2023 and filed a vakalat for their appearance; that the said Court returned the civil vakalat and directed them to file criminal vakalat; that the counsel for the revision petitioners have filed an undertaking memo before the concerned Court for filing vakalat; that the vakalat was filed on 12.10.2023 and the case was posted on 26.10.2023 for filing counter as last chance; that their counsel filed a petition under Order I Rule 10(2) C.P.C., to delete some of the respondents in the DVC petition and sought for adjournment for filing counter, but the concerned Court by returning the petition filed under Order I Rule 10 C.P.C., immediately set the revision petitioners ex-parte and that the revision petitioners have filed an application under Order IX Rule 7 of C.P.C., for setting aside the ex-parte order and that the concerned Court has returned the petition as to how the interlocutory application is maintainable in a criminal Court and as to how the petition under Order IX Rule 7 C.P.C., is maintainable in D.V.C., case.



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5. The learned counsel for the revision petitioners would submit that though they have relied on the judgment of the full Bench of this Court in ***Arun Daniel Vs. Suganya*** reported in ***2022 SCC Online Madras 5435***, the learned Magistrate, without considering the same, has returned the petition.

6. As rightly contended by the learned counsel for the revision petitioners, the full Bench has upheld the decision of the single Bench of Madras High Court in ***Dr.P.Pathmanathan Vs. V.Monica*** reported in ***2021 1 MLJ (Cri) 311***, which upheld that the proceedings under the Domestic Violence Act are civil in nature and also observed that under the Domestic Violence Act a Magistrate Court is only the designated Court to hear applications, but not a criminal Court.

7. Considering the dictum laid down by the Hon'ble Full Bench in ***Arul Daniel's case*** above referred, the impugned order of return is legally not sustainable and the same is liable to be set aside. Hence, the learned Judicial Magistrate is directed to take the petition on file and proceed with the same in accordance with law.



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8. With the above observation and direction, this Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

07.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das

Note: Issue order copy on **08.12.2023**.

To

- 1.The District Munsif cum
Judicial Magistrate, Thiruppuvanam.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.3215 of 2023

K.MURALI SHANKAR,J.

das

Order made in
C.R.P.(MD)No.3216 of 2023
and
C.M.P.(MD)No.16575 of 2023

Dated : 07.12.2023