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C.R.P.(PD).No.123 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.123 of 2022 &
C.M.P.Nos.697 & 699 of 2022

1.Murali Krishna
2.Kumudha ... Petitioners

-Versus-

1.Sucethra
2.Rajini Shree
3.S.Purushothaman ... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the entire proceedings relating to DVC.No.10 of 2019 pending on the file of the learned Judicial Magistrate, Alandhur, Chennai.

*For Petitioners : Ms.Anitha Selvi
for Mr.S.M.Vidyapathi*

*For Respondent 1 : Mrs.Rajeswari for
Mr.P.N.Swaminathan*

For Respondent 3 : No appearance



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ORDER

Heard Ms.Anitha Selvi for Mr.S.M.Vidyapathi for the petitioners and Ms.Rajeswari for Mr.P.N.Swaminathan for the first respondent.

2. This civil revision petition seeks to quash DVC.No.10 of 2019 on the file of the Judicial Magistrate Court at Alandhur. There is no dispute in the relationship between the first petitioner and the first respondent.

3. Ms.Anitha Selvi would argue that the property in which a shared household has been demanded by the first respondent belongs to the second petitioner and therefore, that relief cannot be granted. She would rely upon a judgement of the Supreme Court in ***S.R.Batra and Another vs. Taruna Batra, (2007) 3 SCC 169*** for the purpose of getting the proceedings quashed.

4. Per contra Mrs.Rajeswari would submit that the matter requires the court to go into the documents that had been filed by the second petitioner before the court and in absence of those documents, this Court should not probe into the issue of title under Article 227 of the Constitution of India. Ms.Anitha Selvi would rely upon a judgment in the case of ***Santosh Bakshi vs. State of***



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Punjab & Others in Crl.A.No.1251 of 2014 dated 30.06.2014 to vitiate the

argument of Mrs.Rajeswari.

5. I have carefully considered the arguments on either side.

6. When the relationship between the parties is admitted, the issue, whether it is a shared household or not, would necessarily have to be gone into by the learned Magistrate. It is not for this Court, which is neither the Trial Court, nor the Appellate Court to deal with the matter at the preliminary stage of the issuance of notice by the Trial Court to the petitioners.

7. Insofar as the judgment in ***Santosh Bakshi***'s case is concerned, it arose under different circumstances. In that case, the wife had initiated domestic violence proceedings and the husband had given a complaint under Section 182 of IPC as against the wife. The Supreme Court took note of the fact that the ingredients of Section 182 of IPC were not satisfied and therefore, quashed those proceedings. This is not a judgment for the proposition that if the wife gives a complaint against the husband under the Domestic violence act, the proceedings are liable to be quashed.



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8. In the light of the aforesaid discussion, I am not inclined to quash the proceedings. The civil revision petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

9. Ms.Anitah Selvi would submit that the second petitioner/Kumudha is a senior citizen.

10. Taking into consideration the fact that the second petitioner is a senior citizen and is taking care of her husband who, as Ms.Anitha Selvi says, has lost his eye sight, I am inclined to dispense with the presence of the second petitioner alone except for essential hearings.

29.04.2024

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order



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To

1.The Judicial Magistrate, Alandhur, Chennai.



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V.LAKSHMINARAYANAN, J.

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