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C.R.P. (PD) No.3399



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

**C.R.P. (PD) No.3399 of 2024
and C.M.P.No.18374 of 2024**

Saritha

... Petitioner

Vs.

1.Manickam
2.T.Chandrasekar
3.Maheswari
4.Bhuvaneshwari
5.Valli @ John Valli
6.The Chief Engineer
Mettur Thermal Power Station
TANGEDCO, Mettur Dam – 6,
Mettur Taluk, Salem District.
7.The Superintending Engineer
Mettur Thermal Power Station
TANGEDCO, Mettur Dam – 6,
Mettur Taluk, Salem District.

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the docket order dated 26.04.2023 in I.A.No.1 of 2020 in S.O.P.No.26 of 2020 on the file of the Subordinate Judge, Mettur, Salem.

For the Petitioner : Mr.A.Ashok Kumar



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ORDER

This Civil Revision Petition arises against the order of the learned Subordinate Judge, Mettur in I.A.No.1 of 2020 in S.O.P.No.26 of 2020 dated 03.08.2024 .

2. The Civil Revision Petitioner claims to be the wife of one Muthu Kumar. As Muthu Kumar and the petitioner developed matrimonial issues, they separated, pursuant to the decree of divorce in H.M.O.P.No.91 of 2019 dated 29.10.2014.

3. The reason for separation according to the Civil Revision Petitioner is that constant harassment from her mother-in-law, which affected their matrimonial life. The petitioner would plead that subsequent to the death of her mother-in-law on 12.03.2018, she rejoined the said Muthu Kumar and lived with him as man and wife until his untimely death on 22.08.2019.

4. As her status of wife was denied by the siblings of Muthu Kumar, she presented a suit in O.S.No.43 of 2020 on the file of the District Munsif, Mettur. The said suit is pending. In the meantime, in order to obtain a succession certificate, the Class – II heirs of Muthu Kumar, his siblings, presented S.O.P.No.26 of 2020. In the



said proceedings, the Civil Revision Petitioner filed an impleading application in I.A.No.1 of 2020. The learned Judge on coming to know that there were rival claims to the service benefits of Muthu Kumar, and taking note of the fact that a substantive suit is pending in O.S.No.43 of 2023 decided to stay the proceedings in S.O.P.No.26 of 2020, till the disposal of the suit. Hence this revision.

5. Heard, Mr.A.Ashok Kumar and I have gone through the records.

6. The narration of the aforesaid facts would go to show that the Civil Revision Petitioner pleads that she is the lawfully wedded wife of Muthu Kumar, having rejoined him post their divorce on 29.10.2014. Whether the Muthu Kumar and the Civil Revision Petitioner cohabited as husband and wife is the matter which has to be proved in O.S.No.43 of 2020, pending on the file of the District Munsif Court, Mettur.

7. The learned Judge taking into consideration that the suit is pending, decided to stay the succession OP initiated by the siblings of Muthu Kumar pending disposal of the suit. Infact, this is an order which is in favour of the Civil Revision Petitioner.

8. Mr.A.Ashok Kumar would plead that if this order is challenged by the siblings of Muthu Kumar, he would be put to serious prejudice. A revision under



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Article 227 of the Constitution of India cannot be filed in anticipation of another revision that might or might not be presented by the petitioners in S.O.P.No.26 of 2020.

9. Suffice it to state that since the plaintiff is yet to prove that she is the legal heir of Muthu Kumar, her presence in the succession OP is not essential. The learned Judge has taken the correct approach of waiting for the disposal of the suit, before he proceeds further with the succession OP. To make it abundantly clear, S.O.P.No.26 of 2020 will not be taken up for disposal, till the disposal of the suit presented by the Civil Revision Petitioner. After the disposal of the suit, the Court can proceed with the succession OP.

10. With the above directions, this Civil Revision Petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

05.09.2024

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Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

Neutral citation : Yes / No



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- To
- 1.The District Munsif, Mettur.
 - 2.The Subordinate Judge, Mettur.
 - 3.The Chief Engineer, Mettur Thermal Power Station
TANGEDCO, Mettur Dam – 6, Mettur Taluk, Salem District.
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V.LAKSHMINARAYANAN, J.,

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