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C.R.P.(PD).No.4220 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.4220 of 2024
and C.M.P.No.23429 of 2024

M.Mohamed Jaffer Sadiq

.. Petitioner

Versus

F.Aafiya Rila

.. Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order, dated 17.08.2024 made in I.A.No.8 of 2024 in O.S.No.23 of 2022 on the file of the Family Court, Erode, Erode district and allow the Civil Revision Petition.

For Petitioner : Mr.M.Syed Ibrahim

ORDER

This Civil Revision Petition challenges the order passed by the Family Court at Erode in I.A.No.8 of 2024 in O.S.No.23 of 2022.

2. O.S.No.23 of 2022 is a proceeding initiated by the wife seeking for divorce invoking the provisions of Dissolution of Muslim Marriages Act,



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1939. The pleadings are complete in the said proceedings. Subsequently, the husband initiated O.S.No.1 of 2023 seeking for restitution of conjugal rights. Both the proceedings are pending before the Family Court at Erode.

3. The respondent/wife took out an application in I.A.No.8 of 2024 seeking for joint trial of O.S.No.23 of 2022 along with O.S.No.1 of 2023. The said application was opposed by the husband. The learned Trial Judge, after considering the respective pleas, allowed the application. Hence this Civil Revision Petition.

4. Heard Mr.Syed Ibrahim, learned Counsel for the civil revision petitioner.

5. Mr.Syed Ibrahim points out that a connected revision is pending before this Court in C.R.P.No.2596 of 2024 and it is only thereafter, the proceeding should be taken for joint trial. The revision in C.R.P.No.2596 of 2024 arises out of a direction given by the learned Family Judge to return the belongings of the respondent/wife. The issue in the present case is whether two suits have to be tried together.



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6. The fact that an interlocutory order was passed directing return of belongings does not have any bearing with respect to a joint trial. The only consideration in a joint trial is that whether the issues are common. O.S.No.23 of 2022 seeks for the relief of divorce alleging that the husband did not treat the wife in the manner in which he ought to. O.S.No.1 of 2023 seeks for restitution of conjugal rights. The issues, being common in O.S.No.23 of 2022 and O.S.No.1 of 2023, necessarily, the learned Judge would have to try both the proceedings together.

7. I do not find any reason to revise the order which is, at best, procedural in nature. It does not effect the rights of either the plaintiff or the defendant. It only governs the Court as to how it wants to dispose of the proceedings pending before it. That certainly cannot be a subject matter of a revision under Article 227 of the Constitution of India unless and until it is going to embarrass the trial. As I pointed out above, being a suit invoking special matrimonial jurisdiction between the husband and the wife, that issue does not arise.



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8. Finding no reason to interfere with the order passed by the learned Family Judge, Erode in I.A.No.8 of 2024 in O.S.No.23 of 2022, dated 17.08.2024, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.10.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

The Family Court,
Erode.



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V.LAKSHMINARAYANAN, J.

grs

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