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CRP No.3781 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Civil Revision Petition No.3781 of 2024

Dorapalli Anand

.. Petitioner

Vs.

Dorapalli Sunitha

..Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the Docket Order dated 03.07.2024 passed in Unnumbered IDOP SR No.2942 of 2024 (CNR:TNKP010011982024) on the file of the Principal District Judge, Chengelpet and to number the same.

For Petitioner : Ms.I.Stalin Simion Selvamani



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ORDER

This Civil Revision Petition is at the instance of the petitioner in IDOP SR No.2942 of 2024 in CNR No.TNKP010011982024.

2. The Civil Revision petitioner is aggrieved over the return made by the learned Principal District Judge at Chengelpet on 03.07.2024. The case of the Civil Revision Petitioner is that on 18.06.2011, he married the respondent at Chirala, Prakasam District, Andhra Pradesh. Thereafter disputes and differences arose between the parties constrained the husband to present a petition for restitution of conjugal rights in IDOP No.34 of 2014 before the District Court at Ongole. On 06.02.2014 the said IDOP was compromised before the Lok Adalat and the parties agreed to live together. The petitioner states, pursuant to the compromise, they were residing in Kelambakkam, Chennai. Sometime in November 2016, the wife left the matrimonial home and returned to her parental home at Bangalore. As the wife had deserted him, he invoked the provisions of Section 10 (1) (viii), (ix) and (x) of the Indian Divorce Act, and presented the petition before the



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learned Principal District Judge at Chengelpet.

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3. The learned Principal District Judge returned the petition stating that the IDOP has to be filed either in the place they last resided together or proof of residing together within the jurisdiction of the said Court must be filed, or that IDOP should be filed where the marriage was solemnized. Hence this revision.

4. Heard Ms. I.Stalin Simion Selvamani, learned counsel appearing for the Civil Revision Petitioner.

5. Ms.I.Stalin Simion Selvamani, would invite my attention to the paragraph No.6 of the petition, wherein it is stated that the parties set up their matrimonial home at Kelambakkam and it was from that place that the wife left the civil revision petitioner and moved to Bangalore.

6. For the purpose of territorial jurisdiction, the averments made in the petition alone matters. If the respondent enters appearance and denies



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the fact that they set up the matrimonial home at Kelambakkam, then the learned Judge can frame an issue to that effect and answer the petition.

7. Even at the stage of numbering, the Court cannot demand proof. When specific averments are made in the petition, the Court should take it at the face value and proceed on that basis. In fact, this Court in ***Selvaraj vs. Koodankulam Nuclear Power Plant India Limited, (2021) 5 MLJ 467 (By Hon'ble Mr.Justice N.Seshasayee)***, has held that the Court must not insist on evidence at the stage of numbering. Following the said judgment, the docket order dated 03.07.2024 is set aside. The learned Principal District Judge shall number the IDOP, if it is, otherwise in order.

8. The Civil Revision Petition is ordered accordingly. There shall be no order as to costs.

23.09.2024

jv

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Index: Yes/No

Internet: Yes/No

Speaking order/Non Speaking order

Neutral Citation: Yes/No

Note to the office: The original of the petition and return which has been filed before this Court shall be returned to the learned counsel Ms.I.Stalin Simion Selvamani, after obtaining usual endorsement.

To

The Principal District Judge,
Chengelpet.



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V.LAKSHMINARAYANAN, J.

jv

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