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C.R.P.(PD)No.4884 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.12.2024**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.4884 of 2024
and C.M.P.No.27433 of 2024

K.Kanagaraj

.. Petitioner

Vs

G.Divyaprabha

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 21.10.2024 passed in the memo filed in H.M.O.P.No.131 of 2020 on the file of the Subordinate Court at Gobichettipalayam.

For Petitioner : Mr.J.Manikandan
for Mr.R.Marudhachalamurthy

ORDER



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This civil revision petition arises against the order passed in a memo filed in H.M.O.P.No.131 of 2020 on the file of the Subordinate Court at Gobichettipalayam dated 21.10.2024.

2. The civil revision petitioner is the respondent in H.M.O.P.No.131 of 2020. The said proceeding had been initiated for divorce at the instance of the respondent/wife. The husband had filed H.M.O.P.No.35 of 2021 on the file of the Subordinate Court at Tiruchengode, for restitution of conjugal rights. The said proceeding was withdrawn from the file of the Subordinate Court at Tiruchengode and transferred to the file of the Subordinate Court at Gobichettipalayam, pursuant to the order of this Court in Tr.C.M.P.No.852 of 2021.

3. H.M.O.P.No.131 of 2020 was taken up for trial. P.W.1 has filed her proof affidavit and has to be cross-examined. At that stage, the wife filed a memo seeking for joint trial of H.M.O.P.No.131 of 2020 along with H.M.O.P.No.35 of 2021. The learned Subordinate Judge at Gobichettipalayam accepted the memo and ordered for joint trial. Hence, this revision.

4. I heard Mr.J.Manikandan for Mr.R.Marudhachalamurthy in



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support of the revision.

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5. Mr.J.Manikandan points out that, although the parties in both the proceedings are the same, the issues are different. He states that in the divorce proceedings initiated by the wife in H.M.O.P.No.131 of 2020, she has already entered the witness box and has deposed as P.W.1. Therefore, it is not possible to order joint trial. He points out that the cases must be tried independently, but simultaneously.

6. I have carefully considered the submissions of Mr.J.Manikandan. I have perused the entire records.

7. One is the proceeding for divorce and the other is for restitution of conjugal rights. Hence, obviously, the relief sought for in both the petitions are different. If the Court were to grant restitution of conjugal rights, then it has to dismiss the divorce petition. Similarly, if the Court were to grant divorce, then it cannot decree the proceedings for restitution of conjugal rights. The parties are the same as they ought to be. Hence, interest of justice requires that both the proceedings should be tried by the same learned Judge. Joint trial has been ordered, so as to obviate the



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necessity for the parties to depose on the same facts twice over. I do not find any error in the order of the learned Judge.

8. In the result, the civil revision petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.12.2024

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

kj

To

The Subordinate Court at Gobichettipalayam.



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V. LAKSHMINARAYANAN,J.

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