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C.R.P.No.5124 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE **V. LAKSHMINARAYANAN**

C.R.P.No.5124 of 2024
and
C.M.P.Nos.28746 & 28748 of 2024

1.Chandramoorthy
2.Eswari

.. Petitioners

VS

1.Veeralakshmi
2.Minor Magithra
Rep. By next Friend / Guardian Veeralakshmi

3.Senthilkumaran

.. Respondents

Petition filed under Article 227 of the Constitution of India to call for the records pertaining to D.V.C. No.9 of 2024 pending on the file of learned Judicial Magistrate No.1, Gobichettipalayam and strike off the name of the petitioners on the ground of abuse of process of law.

For Petitioners : Mr.Vengadesh Durairaja V.K.

ORDER

This civil revision petition seeks to quash the proceedings in D.V.C. No.9 of 2024 insofar as the petitioners are concerned.



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2. The third respondent married the first respondent on 21.08.2020. From the wedlock, the second respondent was born. On account of differences, the parties are before the Court.

3. The first petitioner is the father-in-law and the second petitioner is the mother-in-law of the first respondent and grand parents of the second respondent. The third respondent is their son.

4. The first respondent for herself and representing the second respondent has filed D.V.C. No.9 of 2024 before the Judicial Magistrate - I at Gobichettipalayam. She seeks for several reliefs under the provisions of the Protection of Women from Domestic Violence Act, 2005. She had impleaded the civil revision petitioners as respondents 2 and 3 to the said D.V.C. No.9 of 2024. Aggrieved over the same, the present revision has come up before this Court.

5. The case of the civil revision petitioners is that they never resided with respondents 1 and 3 at any point of time and being a love marriage, they had nothing to do with the same. Hence, they pleaded that inclusion of their names in the Domestic Violence case is improper and therefore, their arraignment as parties has to be struck off.



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6. I heard Mr.Vengadesh Durairaja for the civil revision petitioners. He took me through the grounds of revision and wanted me to quash the proceedings as against the civil revision petitioners.

7. I am afraid I cannot come to the rescue of Mr.Vengadesh Durairaja for the simple reason that this issue has been concluded by a Full Bench of this Court in **Arul Daniel vs. Suganya (2022 SCC OnLine Mad 3598)**.

8. The Full Bench held that if a party has been improperly impleaded in the domestic violence proceedings, the remedy for such party is to file an application to strike off before the Magistrate who had issued summons to the aggrieved parties. In case such an application goes against the petitioners, the remedy is to file an appeal against the said order invoking Section 29 of Act 43 of 2005 before the Court of Sessions. Even if the appeal goes against them, then, they can approach this Court by way of revision under Article 227 of the Constitution of India. The Full Bench, in clear and categorical terms, held that Article 227 of the Constitution of India should not be resorted to straight away. Following the verdict of the Full Bench, I am constrained to dismiss this revision.



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9. I notice that the civil revision petitioners are senior citizens. To summon the civil revision petitioners to the Court may put them to both physical and mental stress. Therefore, their appearance before the learned Judicial Magistrate - I at Gobichettipalayam is dispensed with. They shall, however be represented by counsel, on all hearing dates. In case, the petition filed to strike off their names from the array of parties is not successful, they shall present themselves before the Court, as and when, so directed by the learned Magistrate or when their presence is indispensable.

10. With the above observation, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

21.12.2024

Index:Yes/No
Neutral Citation:Yes/No
mmi

To

The Judicial Magistrate - I,
Gobichettipalayam.



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V. LAKSHMINARAYANAN,J.

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