



C.R.P(MD)No.1378 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.09.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(MD)No.1378 of 2024

and

C.M.P(MD)No.8143 of 2024

A.Jennath Dhaga

... 2nd Respondent /
Appellant /
Petitioner

Vs.

Kathijathul Sabura Bhanu

... Petitioner /
Respondent /
Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records and to set aside the order dated 24.11.2023 in Crl.Appeal No.47 of 2022 on the file of the Principal Sessions Judge, Ramanthapuram confirming the order dated 27.10.2022 in DV No.18 of 2019 on the file of the Judicial Magistrate, Additional Mahila Court, Ramanthapuram.

For Petitioner : Mr.C.Mahadevan

For Respondent : Mr.S.A.S.Alaudeen



C.R.P(MD)No.1378 of 2024

ORDER

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Heard both sides.

2.The revision petitioner as well as the respondent are the wives of Mohamed Dawood. The respondent herein filed D.V.No.18 of 2019 on the file of Judicial Magistrate, Additional Mahila Court, Ramanathapuram. The respondent herein examined herself as P.W.1. Exs.P.1 to P.9 were marked. The revision petitioner herein was shown as the second respondent in D.V.No.18 of 2019. Mohamed Dawood was shown as the first respondent. On the side of the respondent, evidence was not adduced. Vide order dated 27.10.2022, the learned Magistrate granted residential order in favour of the respondent herein under Section 17 of the Protection of Women from Domestic Violence Act, 2005 in the first floor of the petition mentioned house. Further direction was given to the revision petitioner herein not to indulge in acts of domestic violence against the respondent herein.

3.After the trial Court passed the order, Mohamed Dawood passed away on 30.09.2019. During his life time, he said to have executed



C.R.P(MD)No.1378 of 2024

settlement deed in favour of his minor son born through the revision petitioner settling the petition mentioned house property.

4.The revision petitioner herein filed Criminal Appeal.No.47 of 2022 before the Principal Sessions Judge, Ramanathapuram. Vide order dated 24.11.2023, the Criminal Appeal was dismissed. Challenging the same, this Civil Revision Petition came to be filed.

5.The learned counsel for the revision petitioner submits that the petition mentioned property is an ancestral property of Mohamed Dawood and that therefore order under Section 17 of the Act could not have been passed. He called upon this Court to set aside the impugned order and grant relief as prayed for.

6.The learned counsel for the respondent submitted that the petitioner lacks the *locus standi* to maintain this Civil Revision Petition. He called upon this Court to dismiss the Civil Revision Petition as not maintainable.



C.R.P(MD)No.1378 of 2024

WEB COPY 7.I carefully considered the rival contentions and went through the materials on record.

8.The trial Court had allowed D.V.No.18 of 2019 on 27.10.2022. The revision petitioner herein was shown as the second respondent in the case. The order is in two parts.

a) The respondent herein was given the right to reside in the shared household (first floor of the petition mentioned property)

b) Protection order was passed against the revision petitioner herein. Therefore, when the revision petitioner has suffered an adverse order, she is definitely entitled to maintain the Civil Revision Petition. Therefore, objection on the ground of *locus standi* is to be rejected.

9.Coming to the merits of the matter, I am of the view that the impugned order does not call for interference. Section 17 of the Act is as follows:

“17. Right to reside in a shared household.—(1)
Notwithstanding anything contained in any other law for



C.R.P(MD)No.1378 of 2024

the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law. ”

If according to the revision petitioner, the petitioner has no right to continue to reside in the property, it is always open to the revision petitioner herein to file an appropriate suit against the respondent before the competent civil Court. It is beyond dispute that the respondent herein was the first wife of Mohamed Dawood. Now Mohamed Dawood is no more, it is not open to the petitioner herein to question the order passed under Section 17 of the Act. To this extent, the petitioner may not have *locus standi*.

10.As regards protection order passed against Section 18 of the order, the petitioner cannot claim that she is entitled to commit any act of domestic violence against the respondent herein. Looked at from any angle, the impugned orders do not call for interference.



C.R.P(MD)No.1378 of 2024

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11.This Civil Revision Petition stands dismissed. The outcome of the Civil Revision Petition will not come in the way of the petitioner or her minor son to institute appropriate ejectment proceedings against the respondent herein. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

09.09.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

To

1.The Principal Sessions Judge,
Ramanthapuram.

2.The Judicial Magistrate,
Additional Mahila Court,
Ramanthapuram.



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C.R.P(MD)No.1378 of 2024

G.R.SWAMINATHAN, J.

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C.R.P(MD)No.1378 of 2024

09.09.2024