



C.R.P. (MD) No. 1559 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2024

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THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P. (MD) No. 1559 of 2024

and

C.M.P. (MD) No. 9207 of 2024

G.Subbulakshmi

... Petitioner/

1st Defendant

-VS-

1.Saraswathi

... 1st Respondents/Plaintiff

2.The Managing Director,
All India Radio Station,
Office at No.49, Lady Doak College Road,
Chinna Chokkikulam, Madurai – 625002.

3.The State through the District Collector,
District Collector Office,
Collector Office Road,
Alwarpuram, Madurai District.

4.The State through the Tahsildar,
Thiruparankundram Taluk Office,
Pandian Nagar, Thanakkan Kulam,
Thirunagar, Madurai.

... Respondents 2-4/

Defendants 2-4

PRAYER: Civil Revision Petition filed under Article 225 of the Constitution of India, to set aside the fair and decreetal order dated 12.04.2024 passed in I.A.No.4 of 2023 in O.S.No.163 of 2022 on the file of the Principal District Munsif, Thoothukudi and set aside the same.



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For Petitioner : Mr.R.Suriya Narayanan

For Respondents : No appearance

ORDER

The Civil Revision Petition is filed aggrieved by the order dated 12.04.2024 made in I.A.No.4 of 2023 in O.S.No.163 of 2022. By the said order, the Trial Court has rejected the prayer of the petitioner to receive his second additional written statement.

2. On a perusal of the material records of the case, the case of the plaintiff is that the plaintiff was the legally wedded wife of the deceased person, who was working as a Director in All India Radio Station. The plaintiff's case is that subsequently, he developed an illicit relationship with the first defendant in the suit and therefore, she is making a rival claim as if she is the wife and suit is filed for a declaration that the plaintiff alone is the legally wedded wife and consequential direction to pay the service benefits to the plaintiff.

3. The suit is resisted by the first defendant by contending that in the year 1994, since plaintiff has abandoned the deceased employee, there were talks



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and pursuant to the settlement talks, there is a customary divorce which was made and only after the customary divorce, the deceased employee got married to the first defendant and therefore, the first defendant is only the legally wedded wife and she is only entitled to all the benefits. Initially written statement alone was filed to the above effect. Thereafter, the first additional written statement was filed and it was also allowed by the Trial Court whereunder the defendant's counterclaim to declare herself as the legally wedded wife and other prayers was also allowed. At this stage, when the trial is now in the advanced stage, the present petition is filed to receive the second additional written statement. According to the second additional written statement, only after the cross-examination, the defendant came to know that the Court does not have a territorial jurisdiction to entertain the same and therefore, the present application is filed to raise that as a plea.

4. The learned Counsel would submit that the new plea which is sought to be raised goes to the very root of the matter as the District Munsif does not have the jurisdiction in territorially or otherwise to direct the respondents to disburse the pension as the said Radio Station is situated in Madurai.



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5. I have considered the said submissions made by the learned Counsel for the petitioner. An objection as to the place of suing has to be taken at the earliest point of time. Even the cause-title of the plaint clearly described the second respondent as the Managing Director, All India Radio, Madurai. Therefore, with that pleading the parties have went into trial and even the original written statement filed and the additional written statement is filed. The objection as to place of suing cannot be taken at the fag end of the trial. The objection as to place of suing is also procedural in nature does not go into the substantial jurisdiction of the Court. The second objection as to the learned Counsel for the petitioner is that the civil Court cannot direct the grant of pension. His contention is that the pension will be granted only as per the rules. It may be so, the main prayer which is in the suit is to declare the plaintiff has the lawful wife and it is only a consequential prayer for disbursement of the service benefits. When the civil Court declares that the plaintiff is the lawfully wedded wife, then it goes without saying that she is entitled for consequential direction to disburse all other consequential benefits. It is another thing to contend that merely because of the civil Court decree, the grant of pension or other benefits will not be automatic, that will be granted depending on the service rules. Therefore, the application to receive the second additional written statement is rightly rejected. The only substantial question which is arises in the



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case is whether or not the plaintiff is the legally wedded wife or whether the first defendant is the legally wedded wife on account of the customary divorce and the validity of the customary divorce. The same has to be decided only by the civil Court and therefore the parties are in trial. Therefore, the application filed to receive the second additional written statement has rightly been dismissed by the Trial Court.

6. Accordingly, finding no merit, the Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No Costs.

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Index : No

NCC : No

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D.BHARATHA CHAKRAVARTHY, J.

PKN

To

1. The Principal District Munsif, Thoothukudi.

2. The Section Officer,

Vernacular Records,

Madurai Bench of Madras High Court,

Madurai.

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