



C.R.P.(MD)Nos.3249 and 3250 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 20.12.2023

PRONOUNCED ON: 20.02.2024

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)Nos.3249 and 3250 of 2023

and

C.M.P.(MD)No.16778 of 2023

C.R.P.(MD)No.3249 of 2023:

G.Nambi Rajan : Petitioner/Respondent/Respondent/
Petitioner

Vs.

R.Vanaja (died) : Respondent/Petitioner/Petitioner/
Respondent

1.Santhi Ravi

2.Ravi Yadav

3.Balaji @ Ramachandran : Respondents/Petitioner 2- 4/ ... /....

PRAYER:- Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the decree and judgment, dated 12.07.2023 passed in E.P.No.5 of 2022 in I.A.No.225 of 2018 against H.M.O.P.No.200 of 2017, on the file of the Family Court, Madurai.



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C.R.P.(MD)No.3250 of 2023:

G.Nambi Rajan : Petitioner/Respondent/Respondent/
respondent/Petitioner

Vs.

R. Vanaja (died) : Respondent/Petitioner/Petitioner/
Respondent

1.Santhi Ravi
2.Ravi Yadav
3.Balaji @ Ramachandran : Respondents/Petitioners/ ... /....

PRAYER:- Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the decree and judgment dated 17.10.2022, passed in E.A.No.11 of 2022 in E.P.No.5 of 2022 in I.A.No. 225 of 2018 against H.M.O.P.No.200 of 2017, on the file of the Family Court, Madurai.

For Petitioner
in both petitions : Ms.B.Asha

For Respondents
in both petitions : Mr.I.Robert Chandra Kumar
for R.1 to R.3 (in SR stage)



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COMMON ORDER

The Civil Revision Petition in C.R.P.(MD)No.3249 of 2023 is directed against the order passed in E.P.No.5 of 2022 in I.A.No.225 of 2018 in H.M.O.P.No.200 of 2017, dated 12.07.2023, on the file of the Family Court, Madurai, directing the revision petitioner to return the jewels and articles and compensation of Rs.50,000/-, as per the order passed in I.A.No.225 of 2018, failing which, to commit the revision petitioner to civil prison.

2. The Civil Revision Petition in C.R.P.(MD)No.3250 of 2023 is directed against the order passed in E.A.No.11 of 2022 in E.P.No.5 of 2022 in I.A.No.225 of 2018 in H.M.O.P.No.200 of 2017, dated 17.10.2022, on the file of the Family Court, Madurai, impleading the respondents 2 to 4 as the legal representatives of the deceased first respondent.

3. Admittedly the revision petitioner had married the deceased



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respondent Vanaja on 16.09.2015. The revision petitioner has then filed a petition in H.M.O.P.NO.200 of 2017 claiming divorce on the file of the Family Court, Tirunelveli. The deceased respondent has filed counter statement and contested the divorce petition. Pending H.M.O.P., the deceased Vanaja has filed an application under Section 26 of the Domestic Violence Act against the revision petitioner seeking orders directing her husband to return the jewels and other srithana articles and to pay compensation for the mental agony and the revision petitioner has filed a counter statement raising objections. Since the revision petitioner has not turned up for the enquiry, he was set exparte and the learned Judge of the Family Court has allowed the petition in I.A.No.225 of 2018 in part and directed the revision petitioner to return all the gold jewels and other srithana articles except items 4, 5 and 6 shown in the list and also to pay Rs.50,000/- as compensation vide order dated 29.11.2018.

4. The revision petitioner, aggrieved by the impugned order passed in I.A.No.225 of 2018, has preferred a revision before this Court in C.R.P.(MD)No.596 of 2020 and when the matter was taken up for hearing, since the learned Counsel appearing for the revision petitioner has sought for direction for speedy disposal of the petition for dissolution



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of marriage and on that basis, this Court has directed the Family Court, Tirunelveli to dispose of the petition in H.M.O.P.No.200 of 2017 on or before 30.04.2021.

5. In pursuance of the directions of this Court, the learned Judge of the Family Court has proceeded with the trial and passed an order dated 29.04.2021 dissolving the marriage that was solemnised between the parties on 16.09.2015. Thereafter, the deceased Vanaja has filed an execution petition in E.P.No.4 of 2019, on the file of the Family Court, Tirunelveli to execute the order passed in I.A.No.225 of 2018 and subsequently the case was transferred to the Family Court, Madurai and the same was taken on file in E.P.No.5 of 2022. Pending execution petition, the said Vanaja had died and hence, her parents and her second husband viz., Balaji @ Ramachandran have filed an application in E.A.No.11 of 2022 to implead them as the petitioners 2 to 4 in E.P.No.5 of 2022 and also two other applications in E.A.No.10 of 2022 and E.A.No.12 of 2022 to recognise the second petitioner therein as the power agent of the other two petitioners and to permit her to proceed with the execution. The revision petitioner herein has raised objections to implead them as petitioners in the execution petition and the learned



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Judge of the Family Court, after enquiry, has allowed the petitions in E.A.Nos.10 to 12 of 2022, vide order dated 17.10.2022. After their impleadment, the execution petition in E.P.No.5 of 2022 was also proceeded with the enquiry and the impugned order came to be passed on 12.07.2023 directing the revision petitioner to return all the jewels and other srithana articles and to pay the compensation of Rs.50,000/- as ordered in I.A.No.225 of 2018, failing which, to commit him to civil prison.

6. In the Civil Revision Petition in C.R.P.(MD)No.3250 of 2023, the revision petitioner has mainly challenged the order impleading the third respondent herein Balaji @ Ramachandran as fourth petitioner in E.P., alleging that he is not the legal husband of the deceased Vanaja. The main contention of the revision petitioner is that during the pendency of the divorce petition in H.M.O.P.No.200 of 2017, the said Vanaja had married the said Balaji @ Ramachandran, that the revision petitioner has produced the evidence to prove the said marriage and that the Family Court accepting the same, has granted divorce.

7. The learned Counsel for the revision petitioner would submit



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that since the deceased Vanaja had married the said Balaji @ Ramachandran during the subsistence of the first marriage, the said marriage cannot be considered as a legal marriage and as such, the said Balaji @ Ramachandran cannot be considered as the legal husband and that therefore, he cannot be impleaded as legal heir of the deceased Vanaja.

8. As already pointed out, after divorce and during the pendency of the execution petition, the said Vanaja had died. It is pertinent to note that the parents of Vanaja along with the alleged second husband of their daughter – Vanaja had filed the applications in E.A.No.11 of 2022 to implead them as the petitioners 2 to 4 in the E.P., and also to recognise the mother of the deceased Vanaja as the power agent of the other two petitioners therein.

9. As rightly contended by the learned Counsel for the respondent, since the marriage between the revision petitioner and the said Vanaja was already dissolved at the instance of the revision petitioner, the revision petitioner has no locus standi to question the alleged legal heirship status of the alleged second husband of the deceased Vanaja.



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The parents of the deceased Vanaja alone are competent to challenge the legal heirship status allegedly claimed by the said Balaji @ Ramachandran. As already pointed out, the parents of the deceased had themselves sought to implead the said Balaji @ Ramachandran as the legal heir of their deceased daughter along with them. Considering the above, the impugned order allowing the implead petition under Section 50 C.P.C., cannot be found fault with.

10. Now turning to the impugned order passed in E.P.No.5 of 2022, the revision petitioner has taken a stand that the deceased Vanaja while leaving the matrimonial home, had taken 389 gram and 57 milligram weighed gold jewels along with her, that the remaining 93 gram 69 milligram gold jewels and gold ring were taken by the police from the revision petitioner and the same were handed over to the deceased Vanaja, that the revision petitioner is not possessing any other jewels with him and that he is only having some brass and silver articles.

11. As already pointed out, the revision petitioner has filed his counter statement raising objections to the petition in I.A.No.225 of 2018. It is not in dispute that after passing of the ex parte order in I.A.No.



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225 of 2018, he filed an application for setting aside the exparte order dated 05.06.2018 in I.A.No.336 of 2018. Since the revision petitioner has turned up for the hearing in I.A.No.336 of 2018, the same was ordered to be dismissed for default on 19.07.2018.

12. It is also not in dispute that the revision petitioner has preferred a Civil Revision Petition in C.R.P.(MD)No.590 of 2020 challenging the order passed in I.A.No.225 of 2018 and as already pointed out, since the Counsel for the revision petitioner has only sought for direction for speedy disposal, the Family Court was directed to dispose of the case on or before 30.04.2021. After getting an order for divorce in H.M.O.P.No. 200 of 2017, the revision petitioner has again preferred a revision in C.R.P.(MD)No.1801 of 2021 challenging the very same order passed in I.A.No.225 of 2018 and the learned Judge of this Court, by specifically observing that since the earlier revision was already disposed of, he has no right to file another revision for setting aside the same order in I.A.No.225 of 2018 and directed the Family Court to refer the E.P., to mediation centre and proceed as per law and also directed to dispose of the matter within a period of four months from the date of receipt of a copy of that order. Since the revision petitioner's application to set aside



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the exparte order passed in I.A.No.225 of 2018 was already dismissed and two revision petitioners filed challenging the orders passed in I.A.No.225 of 2018 were disposed of, as rightly contended by the learned Counsel for the respondent, the order passed in I.A.No.225 of 2018 has attained finality. Hence, the revision petitioner cannot be allowed to raise the points that were already raised in the counter filed in the petition in I.A.No.225 of 2018 and reagitate the same.

13. The learned Counsel for the revision petitioner would mainly contend that the Inspector of Police attached to the All Women Police Station, Tirunelveli Town has been summoned and examined as R.W.2 on the side of the revision petitioner in H.M.O.P.No.200 of 2017, on the file of the Family Court, Tirunelveli and at that time, she has deposed that the deceased Vanaja had not informed as to whether the jewels were still available with her husband.

14. Even assuming for arguments sake, that such evidence was given by the Inspector of Police, since the competent Court has already conducted enquiry and decided the petition in I.A.No.225 of 2018, the above evidence cannot be said to having the overriding effect and nullify



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the decision. As rightly contended by the learned Counsel for the respondent, the revision petitioner has not canvassed any other valid reason or ground to impugn the order passed in E.P.No.5 of 2022. Considering the entire facts and circumstances, the impugned order of the Family Court, Madurai cannot be found fault with. Consequently, this Court concludes that both the Civil Revision Petitions are devoid of merits and the same are liable to be dismissed.

15. In the result, both the Civil Revision Petitions are dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is also dismissed.

20.02.2024

NCC : Yes : No
Index : Yes : No
Internet : Yes : No
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To

1. The Family Court, Madurai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

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