



DATED : 19.12.2024

CORAM :

THE HONOURABLE Mrs. JUSTICE K.GOVINDARAJAN THILAKAVADI

C.R.P(MD)No.3174 of 2024

M.S.Muthu Kamala Sree ... Petitioner / Petitioner

$$V_S$$

P.Ganesh Aravindh ... Respondent / Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the return order dated 04.11.2024 in unnumbered O.P.No.--of 2024 in Filing No.O.P.556 of 2024 by directing the Family Court, Theni, to take on file and number the unnumbered O.P.No.-- of 2024 by allowing this Civil Revision Petition.

For Petitioner : Mr.R.Rajamohan

ORDER

The present Civil Revision Petition is preferred for a direction to direct the Family Court, Theni to number the OP filed by the revision



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petitioner which was returned on 04.11.2024, stating that the said Court has no jurisdiction to entertain the said original petition.

2. According to the learned counsel for the revision petitioner, the petitioner is the wife of the respondent herein, and that she filed an application under Section 9 of the Hindu Marriage Act, 1955, before the Family Court, Theni, for restitution of conjugal rights. However, the said Court misconstrued Section 23A of the Hindu Marriages Act, 1955 and erroneously returned the petition, by stating that only the Family Court, Tirunelveli, has jurisdiction to entertain the said original petition.

3. On perusal of records, it is seen that the Family Court, Theni has returned the petition filed by the revision petitioner / wife under Section 9 of the Hindu Marriages Act, 1955, for restitution of conjugal right stating that only the Family Court, Tirunelveli, has jurisdiction to entertain the said petition. The said return order of the Family Court, Theni is erroneous. The said Court failed to consider that as per Section 19(iii-a) of Hindu Marriages Act, 1955, if the wife is the petitioner, the petition must be presented in the Court where she is residing on the date of presentation.



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4. Therefore, the Family Court, Theni, is directed to number the O.P filed by the revision petitioner and dispose the same on its own merits in accordance with law. Registry is directed to return the original papers to the petitioner by substituting the same with a certified photocopy.

5. With the above direction, this Civil Revision Petition is allowed.

No costs.

19.12.2024

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

- 1.The Judge, Family Court, Theni.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

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ORDER
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