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CRP No. 79 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 03-07-2025**

CORAM

**THE HONOURABLE MR.JUSTICE P.B. BALAJI**

**CRP No. 79 of 2025**

**and**

**CMP.No.683 of 2025**

1. E.Muthusamy Anand

S/o. Eswaran, Door No.32/321,

Avarigoundanputhur, Vadugapatti Post,

Modakurichi Taluk, Erode District

Petitioner

Vs

1. N.Geetha

D/o. Natarajan, Door No.77, Arachalur

Via, Veerapalayam Post, Nadupalayam,

Erode -638 101

Respondent

**PRAYER**

This revision is filed under Article 227 of the Constitution of India praying to set aside the order passed by the learned family court, Erode District Made in I.A.no.07/2024 in FCOP.No.117/2022 dated 09-10-2024 .

For Petitioner: Mr.D.Babu Varadharajan

For Respondent: Mr.S. Prabhu for  
M/s. B. Thirumalai



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**ORDER**

The petitioner is the husband, who has suffered an order dated 09.10.2024 in I.A. No. 7 of 2024 in F.C.O.P. No. 117 of 2022 on the file of the Family Court, Erode, whereby he has been directed to return the jewellery along with a sum of Rs. 5,00,000/- to the respondent / wife.

2. Heard the learned counsel for the parties.

3.The specific contention of the learned counsel for the petitioner is that an application under Section 27 of the Hindu Marriage Act cannot be entertained in isolation, and that any direction regarding the return of property, including jewellery or cash, can only be issued as part of the final order/ decree to be passed, upon conclusion of the trial, and not by way of an interim or separate order.

3.1. In support of this contention, the learned counsel places reliance on a decision of this Court in *A. Prabha v. A. Parselvan*, reported in **2020 SCC OnLine Mad 13129**, wherein this Court held as follows:

*“9. I am inclined to agree with the contention of the learned counsel*



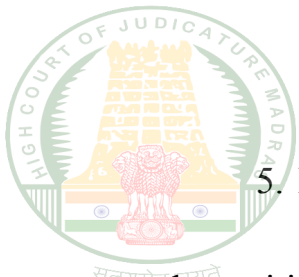
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for the respondent. [Section 27](#) provides for determination of rights of the parties to the properties belonging to both of them jointly or either of them at the time of disposal of a main petition filed under the [Hindu Marriage Act](#). Neither the Hindu Marriage Act nor the [Family Courts Act](#) empower the Court to pass interlocutory orders relating to the ownership of the property, since that will always depend on the evidence that is let in the time of final hearing of the case. The ownership of the property or return of movables or return of property cannot be made subject matter of interlocutory proceedings, more so, because the title to them will have to be decided based on evidence.

10. No doubt, the Hon'ble Supreme Court has held that such gifts given by the husband to the wife at the time of marriage would form part of her Streedhana. Whether the wife is entitled to seek return of them, particularly, during the pendency of the proceedings is a question which has not been pronounced upon by the Hon'ble Supreme Court in Krishna Bhattacharjee's case referred to supra.

11. On a plain reading of [Section 27](#) of the Hindu Marriage Act, I am of the opinion that the present application for return of property filed under [Section 27](#) of the Hindu Marriage Act as Interlocutory application is not maintainable. Therefore, I do not see any reason to interfere with the order of the trial Court in dismissing the application. I, however, make it clear that any observations of the trial made in the course of the order relating to the right of the petitioner / wife to the property in question will not bar the wife from claiming title to it at the time of the decision in the main petition.”

4. Ultimately, it was held that a petition under Section 27 of the Hindu Marriage Act is not maintainable independently, and accordingly, the order passed by the trial court was set aside.



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5. Per contra, the learned counsel for the respondent would submit that the petitioner has not specifically denied the averments with regard to the cash amount of Rs. 5 lakhs or the jewellery. He draws the attention of this Court to the counter affidavit filed by the petitioner in I.A. No. 7 of 2024, wherein the petitioner has, for the first time, made a counter-claim in respect of certain items of jewellery, which was not raised in the main H.M.O.P. proceedings. He would further submit that there is no specific denial of the respondent's claim for the return of jewellery and the sum of Rs. 5 lakhs and therefore there is no error in allow the application, on the ground that it has been entertained, *dehors* the maintainability of the same being heard and disposed off independently.

6. On going through the counter affidavit, it is seen that the petitioner, though, has not specifically denied the claim of the respondent wife; the petitioner has stated that the respondent wife has not come forward with any proof for the claims of returning the jewellery and payment of cash of Rs. 5 lakhs. Therefore the petitioner has only meant he does not admit the claims of the respondent wife.



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7. Be that as it may, in the very same counter affidavit the petitioner has specifically taken up a plea that the Section 23 application is not maintainable and any order for recovering properties belonging to the petitioner, or the respondent, or jointly to both of them, can be decided only at the time of the disposal of the main HMOP proceedings by making provisions in the decree as the court may deem it just and proper.

8. This Court has also held in no uncertain terms in *A. Prabas case* (cited *supra*) that the Sec. 27 application for the return of property is not maintainable as an interlocutory application. Therefore, following the ratio held by this Court, I am inclined to set aside the order in [I.A.No.7/2024](#).

9. In the result, this revision petition is allowed. No costs. However, the parties shall be at liberty to agitate their respective claims for return of property along with the HMOP proceedings. Consequently connected miscellaneous petition is closed.



10. The learned counsel for the respondent would also seek expeditious disposal of the petition. Considering the original petition is pending from 2021 onwards, the Family Court Erode is directed to dispose of the original petition along with [OP.No.432/2023](#) jointly within a period of 9 months from the date of receipt of a copy of this order. The family court shall make provisions regarding the return of property if there is any in the decree that has to be passed.

**03-07-2025**

jrs

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To  
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2.N.Geetha  
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**P.B.BALAJI J.**

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