



C.R.P. (PD) No.1150 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.08.2025
PRONOUNCED ON : 29.08.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

C.R.P. (PD) No.1150 of 2024
and
C.M.P. No.5929 of 2024

H. Sumathi ... Petitioner
vs.
1. H. Rani @ Raniammal
2. K. Harikrishnan ... Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to call for the entire records relating to O.P. No.3602/2022 on the file of III Additional Family Court Judge at Chennai and to strike-off the same on merits in accordance with law.

For Petitioner : Mr. R. Krishnamurthy
For Respondents : No appearance

ORDER

This revision has been filed under Article 227 of the Constitution of India to strike off O.P. No.3602 of 2022 on the file of III Additional Family Court, Chennai.



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2. I have heard Mr.R. Krishnamurthy, learned counsel for the revision petitioner. Despite service of notice on the respondents, the respondents have neither appeared in person, nor through a counsel.

3. The counsel for the petitioner would invite my attention to the proceedings in M.C. No.287 of 2006 as well as M.C. No.499 of 2019. He would also take me through the plaint averments, where the petitioner, one H. Rani @ Raniammal claims to be the wife of K. Harikrishnan, having married him on 26.08.1982 and that they were also blessed with three children.

3. It is further contended by the petitioner that the revision petitioner, claiming to be the lawfully wedded wife of Harikrishnan filed M.C. No.287 of 2006 against her husband and the claim of the revision petitioner was seriously disputed by her husband. However, even according to the petitioner, M.C. No.287 of 2006 was allowed thereafter.

4. On the other hand, according to H. Rani @ Raniammal, since her husband failed and neglected to maintain her, i.e., the petitioner and her children, moved a maintenance claim in M.C. No.499 of 2019 before the Family Court and the Family Court, Chennai has awarded an interim



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maintenance of Rs.12,000/-p.m.. It is also claimed by the petitioner that the award of maintenance in M.C. No.499 of 2019 was prior to the award in M.C. No.287 of 2006. Contending that the award of maintenance in M.C. No.287 of 2006 was non-est in law, the petitioner in the O.P. has sought for a declaration that she is the legally wedded wife of Harikrishnan and the order of maintenance in M.C. No.499 of 2019 would prevail over the order in M.C. No.287 of 2006. It is the specific contention of Mr.R.Krishnamurthy, learned counsel for the petitioner that M.C. No.287 of 2006 was allowed on 08.11.2019 after hot contest and after taking into account the defence raised by the respondent that the revision petitioner was not his lawfully wedded wife. In the course of the said proceedings, DNA test was also conducted and it was confirmed that the children who also claimed maintenance in the said Maintenance Claim were born to biological father viz., K. Harikrishnan. The maintenance claim was therefore allowed, holding that the revision petitioner and her children were entitled to maintenance. The said order was challenged in Crl. R.C. No.180 of 2020 before this Court and by order, dated 18.08.2020, this Court confirmed the award of interim maintenance to the petitioner and her children. The matter was further taken up on appeal before the Hon'ble Supreme Court and in the Special



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Leave to Appeal viz., SLP (Crl) Nos.2163-2164 of 2021, by order, dated

23.03.2021, the Hon'ble Supreme Court dismissed the said Special Leave

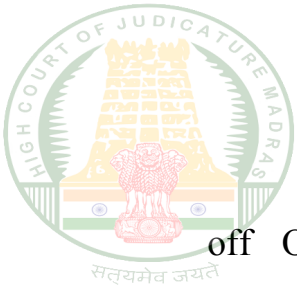
to Appeal. It is therefore the contention of the learned counsel for the revision petitioner that the matter has attained finality and it is not open to the 1st respondent to re-agitate the very same issue by way of separate and independent proceedings and seek for a relief that the Maintenance Claim in favour of the 1st respondent would prevail over the Maintenance Claim in favour of the revision petitioner. By seeking such reliefs in the suit, I find that indirectly the 2nd respondent husband Harikrishnan appears to have set up the 1st respondent to file the O.P. in order to defeat the maintenance claim that was ordered in favour of the revision petitioner, upto the Hon'ble Supreme Court. The prayer as sought for by the 1st respondent cannot be granted to the petitioner and it would violate the mandate of Section 34 of the Specific Relief Act as well. Once the Court has concurrently found that the revision petitioner is entitled to maintenance and the same has been affirmed has attained finality, on contest, the 1st respondent by clever drafting, the cannot attempt to get over the said award of maintenance to the revision petitioner by filing a totally independent proceeding, claiming shelter under a subsequent maintenance claim, which, as rightly contended by the learned counsel



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for the revision petitioner was not even contested by the husband and the argument of Mr.Krishnamurthy, learned counsel for the revision petitioner that it was a collusive decree cannot be lightly brushed aside.

5. In any event the present O.P. is a sheer abuse of process and clear attempt of re-litigation, only to defeat the maintenance claim in favour of the revision petitioner, which was hotly contested and ended in favour of the revision petitioner, upto the Hon'ble Supreme Court thereby, giving a final seal of approval to the award of maintenance. By cleverly including a prayer for declaring the 1st respondent herein as the legally wedded wife, it is only an illusory cause set up with an intent to defeat the maintenance ordered in favour of the revision petitioner. Applying the ratio laid down by the Hon'ble Supreme Court in *T. Arivanandam vs. T.V. Satyapal and another, reported in (1977) 4 SCC 467 Arivanandan's case* and *K.K. Modi vs. K.N. Modi and others reported in (1998) 3 SCC 573* case, wherein it has been held that when it is apparent on the face of the record that the proceedings are a clear abuse of process of law, then the Courts are required to immediately nip such action in the bud. The ratio laid down by the Hon'ble Supreme Court in the above cases will squarely applicable to the facts of the present case. Therefore, I am inclined to allow the Civil Revision Petition and strike



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off O.P. No.3602 of 2022 on the file of III Additional Family Court,
Chennai. No costs. Consequently, connected miscellaneous petition is
closed.

29.08.2025

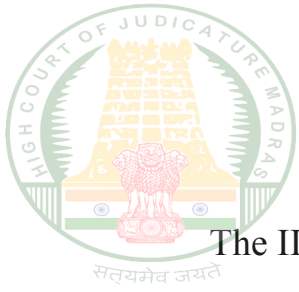
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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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P.B. BALAJI, J.

vsi2

To

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The III Additional Family Court
Chennai.

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PRE-DELIVERY ORDER
IN
C.R.P. (PD) No.1150 of 2024
and
C.M.P. No.5929 of 2024

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