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C.R.P.No.278 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

Civil Revision Petition No. 278 of 2023
and CMP.No.2310 of 2023

1.Pushpa (F/65)
W/o. Late Marimuthu

2.Saravanan (M/49)
S/o. Late Marimuthu

Revision petitioners 1 & 2
are residing at D.No.42, Veerappampalayam,
Modavandi Sathiyamangalam,
Nathagoundanpalayam (PO),
Modakurichi Taluk, Erode - 638 115

3.Arulmozhi (F/45)
W/o. Kalaiarasan,
Near Booma Restaurant
Rasampalayam Division, Manickampalayam,
Erode - 638 004

... Petitioners/Respondents 1 to 3

Versus

1.Jothimani (F/46)
W/o. Late. M.Sasikumar
Periya Garden, Poravipalayam,
PK Puthur Post, Anthiyur Taluk,
Erode District.

... Respondent/Complainant



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Prayer: Civil Miscellaneous Petition filed under Article 227 of the Constitution of India praying to call for records pertaining to D.V.C.No.9 of 2022 pending on the file of the Judicial Magistrate Court No.II, Bhavani and strike off the names of the revision petitioners as abuse of process of law.

For Petitioners : Mr.C.S.Saravanan

For Respondent : Mr.R.Prabakar

ORDER

This Civil Miscellaneous Petition has been filed under Article 227 of the Constitution of India praying to call for records pertaining to D.V.C.No.9 of 2022 pending on the file of the 'learned Judicial Magistrate No.II, Bhavani' ['learned Magistrate' for short] and strike off the names of the revision petitioners.

2. The revision petitioners are the respondents in D.V.C.No.9 of 2022. The 2nd revision petitioner is the son of the 1st revision petitioner while the 3rd revision petitioner is her daughter. The respondent herein / complainant is the wife of late Sasikumar who is the deceased son of 1st revision petitioner. There is no dispute with regard to the relationship between the parties.

3. At this juncture, this Court deems fit to cite the Full Bench



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Judgment of this Court in **Arul Daniel -vs- Suganya**, reported in **2022**

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SCC Online Mad 5435, wherein it was held that resort to a revision petition under Article 227 of the Constitution of India to quash the domestic violence proceedings should not be made unless the Judicial Magistrate has no inherent jurisdiction to entertain the Domestic Violence Case.

4. Coming back to the case on hand, as stated *supra*, the domestic relationship between the parties is admitted. Hence, in view of the averments made in the complaint, this Court is of the view that the learned Magistrate has jurisdiction to entertain the case. Therefore, in view of **Arul Daniel's Case**, this Civil Revision Petition is not maintainable. The revision petitioners are at liberty to file an application before the learned Magistrate to strike off their names and in such a scenario, the learned Magistrate shall decide the same on merits in accordance with law dehors this Order. If the said application is dismissed, the next remedy available to the revision petitioners is an appeal under Section 29 of the Protection of Women from Domestic Violence Act, 2005. And only over the Order passed therein, the revision petitioners can prefer a Civil Revision Petition by invoking Article 227 of



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the Constitution of India. Hence, this Civil Revision Petition is liable to dismissed.

5. That apart, the learned Counsel for the revision petitioners prayed this Court to direct the learned Magistrate to dispense with the personal appearance of the 1st revision petitioner before the learned Magistrate considering her age.

5.1. The revision petitioners are at liberty to raise the said request before the learned Magistrate who is to consider the matter, bearing in mind the fact that the 1st petitioner is an 65 years old woman.

6. The learned Counsel for the respondent herein / complainant sought for a direction for time bound disposal of the case.

6.1. The Hon'ble Supreme Court in ***High Court Bar Association, Allahabad -vs- State of U.P. [Neutral Citation : 2024 INSC 150]***, has held that Constitutional Courts shall issue directions for time bound disposal of case to other courts only in exceptional circumstances. In view of the same, this Court is not inclined to accept the request of the learned Counsel for the respondent herein/ complainant. However,



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considering the age of the 1st petitioner, the learned Magistrate may dispose of the case in an expeditious manner and both parties are directed to co-operate with the learned Magistrate for the same.

7. With the above observations, the Civil Revision Petition is dismissed. In view of the facts and circumstances of this case, there shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

03.01.2025

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Note: Issue order copy by Tuesday viz., 07.01.2025

To:

The Judicial Magistrate Court No.II, Bhavani

R. SAKTHIVEL, J.



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