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C.R.P.Nos.946 & 947 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.04.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.Nos.946 & 947 of 2025
and CMP.No.5465 of 2025 in CRP.No.947 of 2025

S.T.Subash

... Petitioner in both CRPs

Vs.

R.Dhivyaa

... Respondent in both CRPs

Common Prayer: Civil Revision Petitions filed under Section 227 of Constitution of India praying to set aside the order and decretal order dated 31.01.2025 made in I.A.No.3/2024 in O.P.No.271 of 2023 and I.A.No.4/2024 in O.P.No.271/2023 respectively on the file of VII Additional Family Court, Chennai.

For Petitioner : Mr.A.K.Sriram, Senior Counsel
(in both CRPs) for M/s.A.S.Kailasam Associates

For Respondent : Mr.T.R.Rajagopalan, Senior Counsel
(in both CRPs) for Mr.G.Veerapathiran



COMMON ORDER

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These revision petitions are filed by the husband, challenging the orders dated 31.01.2025 in I.A.No.3 of 2024 and I.A.No.4 of 2024 passed by the learned Judge, VII Additional Family Court, Chennai.

2. The short facts that led to the filing of the present revision petitions are as follows :

- (a) The respondent-wife has filed O.P.No.271/2023 praying for restitution of conjugal rights
- (b) The marriage between the respondent and the petitioner was solemnized on 14.06.2010. After their marriage, they moved to the United Kingdom. On 18.11.2015, they were blessed with a daughter, who is now 9 years old.
- (c) Thereafter, the respondent deserted his family and returned to his native place and never returned back for more than four years.
- (d) On 14.12.2022, the husband issued a legal notice to the wife asking for a divorce by mutual consent. To this, the wife had sent a reply notice on 04.03.2022 calling upon the respondent to come



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C.R.P.Nos.946 & 947 of 2022

and join with her and her minor child.

- (e) Since, there is no response from the husband, the wife had filed the petition in O.P.No.271 of 2023 for restitution of conjugal rights.
- (f) The husband had filed a counter resisting the relief sought by the wife. However, he preferred a counter claim seeking for dissolution of marriage on the ground of cruelty.
- (g) Pending the proceedings in O.P., the petitioner-husband had filed two applications namely I.A.No.2 of 2024 and I.A.No.3 of 2024. I.A.No.2 of 2024 was filed seeking permanent custody of his daughter, and I.A.No.3 of 2024 was filed seeking an ad-interim injunction to restrain the respondent-wife from taking the child out of India. It is the contention of the petitioner-husband that the minor daughter is comfortable in living with him and his parents, and therefore considering the welfare of the child, he may be permitted to have the custody of his minor daughter during the stay of the wife outside India.
- (h) Be that as it may, the respondent-wife had filed I.A.No.4 of 2024, seeking leave of the Court to take her daughter to Germany. It is



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C.R.P.Nos.946 & 947 of 2025

her contention that she has got a permanent employment in Germany and she has sufficient capacity to maintain her minor child.

- (i) Counters were filed in both these applications.
- (j) The learned VII Additional Principal Judge, Family Court, Chennai, by common order dated 31.01.2025, has allowed the application in I.A.No.4/2024 filed by the wife, permitting her to take the child to Germany, on conditions that the wife shall hand over the child to the custody of the husband during her annual vacation, however, the Family Court dismissed the application in I.A.No.3/2024 filed by the husband, seeking ad-interim injunction restraining the wife from taking the minor child abroad.
- (k) Challenging the said I.As, the revision petitioner/husband has filed the present revisions.

3. Heard the learned Senior Counsel on either side and perused the materials.



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C.R.P.Nos.946 & 947 of 2023



4. This Court upon hearing the learned counsel, has suggested that the matter may be remitted to the trial Court for fresh consideration of these impugned applications as the Court below has not considered the evidence properly.

5. The learned Senior Counsel appearing on behalf of the respondent-wife, on instructions would submit that the wife has not objection to the revision petitions being allowed and the matter be remitted back to the VII Additional Principal Judge, Family Court, Chennai, for consideration of both the interlocutory applications afresh.

6. The learned Senior Counsel appearing on behalf of the petitioner-husband, on instructions from his client, is agreeable to the same. He would however submit that the petitioner-husband had filed yet another interlocutory application in I.A.No.2 of 2024, for interim custody of the minor child, in which, orders have not been passed by the learned Family Court.



C.R.P.Nos.946 & 947 of 2025

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7. Accordingly, both the civil revision petitions are allowed and the matter is remitted to back to the VII Additional Principal Judge, Family Court, Chennai, who shall consider all the applications together viz., the application in I.A.No.2 of 2024 along with the impugned applications, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2025

Index : Yes/No
Neutral Citation : Yes / No
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To:

1.The VII Additional Principal Judge
Family Court, Chennai.

2.The Section Officer
VR Section
High Court, Madras.



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C.R.P.Nos.946 & 947 of 2025

P.T. ASHA, J.

ds

C.R.P.Nos.946 & 947 of 2025

24.04.2025