



CRP NO.1848 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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ORDER RESERVED ON : 27 / 11 / 2024

ORDER PRONOUNCED ON : 10 / 03 / 2025

CORAM:

THE HONOURABLE MR. JUSTICE R. SAKTHIVEL

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AND

CMP NO.11859 OF 2023

A.Maharajan
S/o.Aleemadan
No.5/82, South Street,
Nadukuttudankadu, Pudukottai Post,
Tuticorin District.

... Petitioner /
Respondent

Versus

Ramalakshmi
W/o. Maharajan
No.19/10, Udhayasuriyan 1st Street,
Sathuma Nagar, Thiruvottiyur,
Chennai – 600 019.

... Respondent /
Petitioner

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to call for the records of DVC No.20 of 2022 on the file of the Judicial Magistrate at Thiruvottiyur and strike off the same.



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For Petitioner : Mr.Perumbulavil Radhakrishnan
for M/s.P.Paul Selvam

For Respondent : Mr.Ralph V. Manohar

ORDER

This Civil Revision Petition has been filed by the petitioner seeking to call for the records in D.V.C. No.20 of 2022 on the file of the learned Judicial Magistrate No.I, Thiruvottiyur and to strike off the same.

2. The respondent along with her two children had filed D.V.C. No.34 of 2017 on the file of the learned Judicial Magistrate No.III, Thoothukudi and the same was partly allowed and thereby the petitioner herein was ordered to pay a sum of Rs.5,000/- each (total Rs.15,000/-) along with the children's school fees. Further, as far as the relief under Sections 18 (Protection Order), 19 (Residential Order) and 22 (Compensation) of the Domestic Violence Act, 2005 is concerned, the case was dismissed. Relevant extract of the Order dated 25.01.2019 of the learned Judicial Magistrate No.III, Thoothukudi reads thus:

“The respondent further stated that since the first petitioner looking after the lands at Kurukattur



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village, the petitioner is not entitled for residential order. Further with respect to residential order at Chennai property, admittedly case pending before appellate court for cancellation of settlement deed by first respondent. Hence this court felt that there is no necessity for residential order for Chennai address.

Further in the main petition, no where by the averments for threatening by respondents to any manner has been stated the petitioner, further this court felt that as per the reply notice dated '12.11.2012, Ex.P.16 nothing stated about the Jewels of 36 1/2 sovereign and stated in that reply notice page 4 that petitioner owned only 7 sovereign of gold.

Further based on the facts and circumstances of the case as per section 22 of DV Acts this court is not inclined to grant lump sums compensation to the petitioners.

In the result this petition is partly allowed and the first respondent is directed to pay Rs.5000 each to the petitioners 1 to 3 every month within 10th of every English calender month from the date of petition and also to pay yearly school fees as claimed



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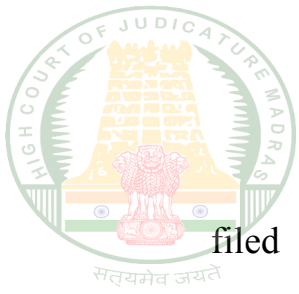


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in this school and in respect of other relief u/s.18,19,22 are dismissed. The relief against R2 to R5 are dismissed.”

3. Thereafter, the respondent filed D.V.C. No.20 of 2022 before learned Judicial Magistrate No.I, Thiruvottiyur, seeking Order under Sections 18, 19 and 23 of the Domestic Violence Act, 2005. Questioning the same, this Civil Revision Petition has been filed by the husband.

4. Learned Counsel for the petitioner has submitted that the respondent along with her two children filed D.V.C. No.34 of 2017 before learned Judicial Magistrate No.III, Thoothukudi, against the petitioner and four others, and the same was partly allowed, and thereby the petitioner was directed to pay maintenance amount as well as school fees. In that case, protection order in respect of Thiruvottiyur property, Residential Order as well as Compensation were specifically denied by the Court, namely learned Judicial Magistrate No.III, Thoothukudi. If the respondent was aggrieved with the said Order, she ought to have filed an appeal under Section 29 of the Domestic Violence Act, 2005. Instead she



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filed another Domestic Violence Complaint before learned Judicial Magistrate No.I, Thiruvottiyur, which is nothing but abuse of process of law and hence, liable to be struck off. Accordingly, he prayed to allow the Civil Revision Petition and quash the D.V.C. No.20 of 2022 on the file of learned Judicial Magistrate No.I, Thiruvottiyur. He would rely on ***Satish Chander Ahuja -vs- Sneha Ahuja***, reported in ***(2021) 1 SCC 414*** to contend that this case does not come under the purview of the Domestic Violence Act, 2005 as there is no element of permanency of stay involved in this case.

5. Per contra, learned counsel for respondent has submitted that the respondent is residing in the Thiruvottiyur property since the beginning, based on the Settlement Deed dated 23.04.2008 executed by the petitioner in favour of respondent / wife. Thereafter, the petitioner cancelled the Settlement Deed on 28.09.2012. The respondent filed the Suit in O.S.No.180 of 2012 on the file of District Munsif, Thiruvottiyur and it was ruled that the cancellation of the Settlement Deed is null and void. The petitioner preferred an appeal against the same in A.S.No.26 of 2015, wherein a memo of joint compromise was filed, the appeal was dismissed as settled out of Court, and the joint compromise memo was

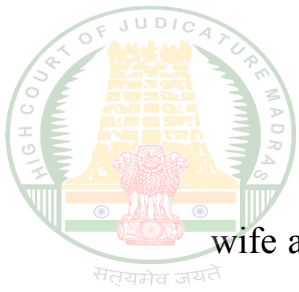


ordered as a form and part of the Decree. The petitioner challenged the

Compromise Decree by filing C.R.P. (NPD) No.4060 of 2018 and the same was also dismissed on 11.03.2019. Even then the petitioner tried to usurp the Thiruvottiyur property and hence, the respondent filed D.V.C. No.20 of 2022 before learned Judicial Magistrate No.I, Thiruvottiyur. He would further submit that the property in respect of which protection order is sought, is within the jurisdiction of learned Judicial Magistrate No.I, Thiruvottiyur and hence, learned Judicial Magistrate No.III, Thoothukudi has no territorial jurisdiction to pass any order. Further trial commenced on 20.06.2023 and the petitioner had marked Ex-P.1 to Ex-P.17. In these circumstances, this Civil Revision Petition is not maintainable. Hence, this D.V.C. No.20 of 2022 is maintainable. Accordingly, he prayed to dismiss the Civil Revision Petition.

6. Heard on either side. Perused the materials available on record.

7. Admittedly, the Settlement property is located in Thiruvottiyur which comes under the jurisdiction of the Thiruvottiyur Judicial Magistrate. The petitioner married the respondent as a second



wife and was blessed with two children. So *prima facie* the petitioner and the respondent have domestic relationship. Hence, the Domestic Violence Act is applicable. ***Sathish Chandra's Case*** would not be applicable to the facts and circumstances of this case.

8. As regards the earlier complaint, though it was dismissed in respect of Thiruvottiyur property, the Court at Tuticorin had no territorial jurisdiction to pass Order under Section 18 and 19 of the Domestic violence Act, 2005 in respect of the Thiruvottiyur property. Moreover, cause of action in this case, is recurring in nature and hence D.V.C. No.20 of 2022 is maintainable. It is apposite to extract Section 27 of Domestic Violence Act, 2005 hereunder:

“27. Jurisdiction - (1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-

(a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or

(b) the respondent resides or carries on business or is employed; or

(c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.

(2) Any order made under this Act shall be enforceable throughout India.”



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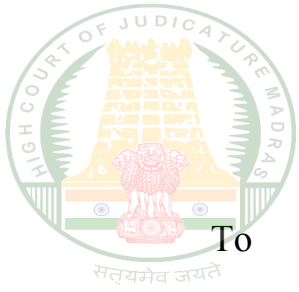
9. It is the Thiruvottiyur Court that has jurisdiction and not the Tuticorin Court. Moreover, this revision petition has been filed after commencement of trial. The petitioner can very well raise all the contentions raised before this Court before the Thiruvottiyur Judicial Magistrate. In these circumstances, this revision petition lacks merit and deserves to be dismissed.

10. It is clarified that the above observations are made only for the purpose of disposing of this revision petition and shall not in any manner influence the Order of the Thiruvottiyur Judicial Magistrate.

11. Resultantly, the Civil Revision Petition is dismissed. In view of the facts and circumstances of this case, there shall be no order as to costs. Consequently, connect Civil Miscellaneous Petition is closed.

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

WEB COPY The Judicial Magistrate
Thiruvottiyur.



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R. SAKTHIVEL, J.

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PRE-DELIVERY ORDER MADE IN

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