



CRP.(PD)No.4310 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2025

CORAM:

THE HON'BLE MR. JUSTICE M.JOTHIRAMAN

CRP.No.4310 of 2025
and CMP.No.22120 of 2025

1.R.Sheela

2.R.Priya

... Petitioners / Defendants 1 and 2

vs.

1.Maragatham

2.Anju.R,

3.Akash.R,

4.Arjun. R,

... Respondents 1 to 4 / Plaintiffs

5.The Managing Director,
Tamil Nadu Housing Board,
CMDA Building,
E&C Market Road,
Koyambedu, Chennai-600 107.

6.The Executive Engineer / Administrative Officer,
Tamil Nadu Housing Board,
Besant Nagar Division,
No.63, Dr.Muthulakshmi Road,
Venkata Rathinam Nagar,
Adyar, Chennai-6000 020.

... Respondents / Defendants 3 & 4



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Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 28.07.2025 passed in I.A.No.3 of 2024 in O.S.No.6025 of 2025 by the XXIII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.L.Dhamodharan

For Respondent : Mr.K.Indupriya,
Caveator for R1 to R4

ORDER

The unsuccessful defendants 1 and 2 have preferred this Civil Revision Petition. One Maragatham, R.Anju, R.Akash and R.Arjun have filed the Suit in O.S.No.6025 of 2024 on the file of the XXIII Assistant Judge, City Civil Court, Chennai, seeking for Declaration declaring that the 1st plaintiff / Maragatham is the legally wedded wife of late P.Rajasekaran and that the 1st plaintiff and the plaintiffs 2 to 4, who are the children born to the 1st plaintiff, as the legal heirs of late P.Rajasekaran and consequently, directing the 1st defendant / R.Sheela to receive the terminal benefits of late P.Rajasekaran from the defendants 3 and 4. Meanwhile, the defendants 1 and 2 have filed application in I.A.No.3/2024 in O.S.No.6025 of 2024 under Order VII Rule 11(d) CPC to reject the plaint on the ground that the Suit for declaration and consequential relief in respect of



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matrimonial dispute as per proviso under Section 8 of the Family Court Act, the jurisdiction of the Civil Court is ousted. The plaintiffs filed their objections to the said application. Upon hearing the arguments advanced on either side, the Court below, vide order dated 28.07.2025 has dismissed the application on the ground that the dispute between the parties can be resolved on the basis of evidence to be tendered by the parties and the Court below having a concurrent jurisdiction can entertain the Suit and it is not barred under Section 8 of the Family Courts Act. Aggrieved over the same, the defendants 1 and 2 have filed the present Civil Revision Petition.

2. The learned counsel appearing for the petitioners would submit that the Hon'ble Supreme Court in the judgment in ***Balram Yadav v. Fulmaniya Yadav*** [2016 Supreme (SC) 320] held that Declaration as to the validity of both marriage and matrimonial status of a person is within the exclusive jurisdiction of the Family Court, vide Section 8 of the Family Courts Act. The Court below failed to take note that there is a statutory bar under Section 8 of the Family Courts Act and thereby dismissal of the application filed for rejection of the plaint is not proper. The Court below failed to note that the relief sought for by the plaintiff pertains to



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declaration, declaring that 1st plaintiff is the legally wedded wife of late P.Rajasekaran and the same has to be decided only by the Family Court and not by the Civil Court. The Family Court enacted by the Parliament has over-riding effect in respect of Civil Court and thereby dismissal of the application by the Trial Court is not proper. The learned counsel for the petitioners, to strengthen his contentions, has relied upon the judgment in **Balram Yadav case (supra)** and would submit that the aforesaid judgment has been consistently followed by most of the High Courts. The High Court of Orissa in the decision in **Kshirbati @ Kharabati Naik v. Premsila Naik & Anr. [RSA No.122 of 2024 dated 04.03.2025]** has followed the judgment in **Balram Yadav case (supra)** wherein it was held that the proceeding for declaration as to the validity of both marriage and status of a person is within the exclusive jurisdiction of the Family Court. In yet another judgment, the High Court of Karnataka in **Arjun v. Sushilabai and others [Misc. First Appeal No.202179 of 2023 (FC) dated 27.01.2025]** has followed the judgment in **Balram Yadav case (supra)**. The learned counsel for the petitioner, in support of his contentions, has also relied on the following judgments

(i) **S.Krishnamurthy v. Poubalane & Others [2013-3-L.W.189].**

(ii) **Shyamal Mallick, Son of late Santosh Mallick v. Mamta Das [W.P.**



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227 No.31 of 2024 dated 08.04.2024 – decision of the High Court of Chhattisgarh, Bilaspur]

(iii) Bhojraj Srinivas v. Bhojraj Divya [decision of the Telangana High Court in CCCA No.120 of 2022 dated 03.04.2023].

3. *Per contra*, learned counsel appearing for the respondent would submit that the Suit is not filed for dissolution of marriage and the Suit is filed only for declaration of legal status under Section 34 of the Specific Relief Act. The Suit, is not, in substance, a petition for dissolution of marriage under either the Special Marriage Act, 1954 or the Hindu Marriage Act, 1955. The Suit is filed seeking for declaration of a legal character. The remedies provided and the Scheme of the Hindu Marriage Act and of the Special Marriage Act show that the statute creates special rights or liabilities and provides for determination of rights relating to marriage. The Acts do not lay down that all questions relating to the rights and liabilities shall be determined only by the Tribunals which are constituted under the said Act. Section 8(a) of the Family Courts Act excludes the Civil Court's jurisdiction in respect of a suit or proceeding which is between the parties and filed under the Hindu Marriage Act or Special Marriage Act, where the suit is to



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annul or dissolve a marriage, or is for restitution of conjugal rights or judicial separation and it does not create any bar or oust the jurisdiction of the Civil Court, if a Suit is filed for a declaration as to the legal character of a marriage. The suit not being covered under the provisions of Section 7, it cannot be said to be barred under Section 8 for the Civil Courts to exercise their jurisdiction. The suit or proceeding referred to in Section 7(1) of the Family Courts Act must be between the husband and wife and when the suit is not between the husband and wife, then the Family Court will not have any exclusive jurisdiction. To strengthen her contention, learned counsel for the respondents has relied upon the following judgments

(i) S.Krishnamurthy v. Poubalane & Ors. [2013 (3) LW 189]

(ii) Samar Kumar Roy v. Jharna Bera [2017 (9) SCC 591]

(iii) R.Kasthuri and Others v. M.Kasthuri and Others [(2018) 5 SCC 353]

(iv) C.Raja v. M.Sridevi @ Kalpana [2023 (4) CTC 705]

(v) Vijayalakshmy v. P.K.Jayashree & Anr. [2018 SCC Online Ker 23326]

(vi) Hary Jot Singh v. Manpreet Kaur [(2019) SCC Online Del 11716]

(vii) K.Annammal v. Pushpa 7 Ors. [S.A.No.1315 of 2007 dated

14.07.2021]



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**(viii) Usha @ Anjalakshmi v. The State, District Land Surveyor
[S.A.No.178 of 2025 dated 07.03.2025]**

**(ix) Devakiammal v. Vasantha Kumari & Anr. [A.S.No.450 of 2018 dated
13.02.2020]**

**(x) Union of India v. Kursheed Unnissa & Ors. [S.A.No.1039 of 2009
dated 27.09.2021]**

**(xi) Central bank of India & Anr. v. Prabha Jain & Ors. [2025 SCC
Online SC 121].**

4. Heard the learned counsel on either side and perused the entire materials available on record.

5. It is seen from the records that the Suit has been filed in O.S.No.6025 of 2024 on the file of the XXIII Assistant City Civil Court, Chennai, seeking the following reliefs:

(a) For declaration declaring that the 1st plaintiff is the legally wedded wife of the late P.Rajasekaran and that the 1st plaintiff and plaintiffs 2 to 4 who are the children born to 1st plaintiff and the Late Rajasekar as per legal heirs of Late P.Rajasekaran as the legal heirs



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of Late P.Rajasekara, consequently

(b) For direction directing the 1st defendant to receive the terminal benefits of Late P.Rajasekaran from the 3rd and 4th defendants and consequently pay the same to the plaintiffs herein.

(or)

Alternatively, for direction directing the plaintiff to receive the terminal benefits of Late P.Rajasekaran from the 3rd and 4th defendants

(c) Cost of the suit;

(d) pass such further orders as this Court may deem fit and proper in the circumstances of the case.

6. It is relevant to refer to Sections 7 & 8 of the Family Courts Act, 1984, which reads hereunder:

S.7.Jurisdiction.—(1) Subject to the other provisions of this Act, a Family Court shall—

(a) have and exercise all the jurisdiction exercisable by any district court or any subordinate civil court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation; and

(b) be deemed, for the purposes of exercising such jurisdiction under such law, to be a district court or, as the case may be, such subordinate civil court for the area to which the jurisdiction of the Family Court extends.

Explanation.—The suits and proceedings referred to in this sub-section are suits and proceedings of the following nature, namely:—

(a) a suit or proceeding between the parties to a marriage for a



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decree of nullity of marriage (declaring the marriage to be null and void or, as the case may be, annulling the marriage) or restitution of conjugal rights or judicial separation or dissolution of marriage;

(b) a suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person;

(c) a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them;

(d) a suit or proceeding for an order or injunction in circumstance arising out of a marital relationship;

(e) a suit or proceeding for a declaration as to the legitimacy of any person;

(f) a suit or proceeding for maintenance;

(g) a suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.

(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise—

(a) the jurisdiction exercisable by a Magistrate of the first class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973 (2 of 1974); and

(b) such other jurisdiction as may be conferred on it by any other enactment.

8. Exclusion of jurisdiction and pending proceedings.—Where a Family Court has been established for any area,—

(a) no district court or any subordinate civil court referred to in sub-section (1) of section 7 shall, in relation to such area, have or exercise any jurisdiction in respect of any suit or proceeding of the nature referred to in the Explanation to that sub-section;

(b) no magistrate shall, in relation to such area, have or exercise



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any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974);

(c) every suit or proceeding of the nature referred to in the Explanation to sub-section (1) of section 7 and every proceeding under Chapter IX of the Code of Criminal Procedure, 1973 (2 of 1974),—

(i) which is pending immediately before the establishment of such Family Court before any district court or subordinate court referred to in that sub-section or, as the case may be, before any magistrate under the said Code; and

(ii) which would have been required to be instituted or taken before such Family Court if, before the date on which such suit or proceeding was instituted or taken, this Act had come into force and such Family Court had been established, shall stand transferred to such Family Court on the date on which it is established.

7. At this juncture, it is also relevant to cite the judgment of the Hon'ble Supreme Court in ***[R.Kasthuri and others v.M.Kasthuri and others reported in (2018) 5 SCC 353]*** wherein it was held as under:

"5.The objects and reasons behind the enactment of the Act which is reproduced herein below would suggest that the reason for constitution of family courts is for settlement of family disputes, if possible, by pre-litigation proceedings. If the dispute cannot be settled the same has to be adjudicated by adoption of a process which is different from what is adopted in ordinary civil proceedings:

“Statement of objects and reasons:

Several associations of women, other organisations and individuals have urged, from time to time, that Family Courts be set up



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for the settlement of family disputes, where emphasis should be laid on conciliation and achieving socially desirable results and adherence to rigid rules of procedure and evidence should be eliminated. The Law Commission in its 59th report (1974) had also stressed that in dealing with disputes concerning the family the court ought to adopt an approach radically different from that adopted in ordinary civil proceedings and that it should make reasonable efforts at settlement before the commencement of the trial. The Code of Civil Procedure was amended in 1976 to provide for a special procedure to be adopted in suits or proceedings relating to matters concerning the family. However, not much use has been made by the courts in adopting this conciliatory procedure and the courts continue to deal with family disputes in the same manner as other civil matters and the same adversary approach prevails. The need was, therefore, felt, in the public interest, to establish Family Courts for speedy settlement of family disputes.”

6. Sections 13, 14 and 15 of the Act spell out a special procedure. The other provisions of the Act i.e. Section 4(4) would indicate that a major objective behind the enactment of the Act is to have a specialized body to preserve and save the institution of marriage.

7. In the present case, there is no family dispute between the plaintiffs and the defendants. The dispute arose after the demise of Gunaseelan to whom both the plaintiff No.1 and the defendant No.1 claim to be married. The other plaintiffs and defendant No.2 are the children claimed to be born out of the respective marriages.

8. ***The above would indicate that the dispute between the parties is purely a civil dispute and has no bearing on any dispute within a family which needs to be resolved by a special procedure as provided under the Act.*** No issue with regard to the institution of



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marriage and the need to preserve the same also arises in the present case. That apart, the dispute between the parties can only be resolved on the basis of evidence to be tendered by the parties, admissibility of which has to be adjudged within the four corners of the provisions of the Indian Evidence Act, 1872. In such a proceeding it would be clearly wrong to deprive the parties of the benefit of the services of counsels." (emphasis supplied).

8. It is seen from the records that there is no family dispute between the plaintiff and the defendants 1 and 2. The dispute arose after the demise of late Rajasekaran, to whom both the 1st plaintiff and the 1st defendant claimed to be married. Other plaintiffs and the defendants 2 and 3 are children claimed to be born from the respective marriages. The above would indicate that the dispute between the parties is purely a civil dispute and has no bearing on any dispute within a family which needs to be resolved by a special procedure as provided under the Act. *[R.Kasthuri's case (supra)]*.

9. It is also relevant to refer Order VII Rule 11 CPC, which is extracted hereunder:

Order VII Rule 11. Rejection of plaint.— The plaint shall be rejected in the following cases:—

(a) where it does not disclose a cause of action;



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(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;

(c) where the relief claimed is properly valued, but the plaint is returned upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;

(d) where the suit appears from the statement in the plaint to be barred by any law;

[(e) where it is not filed in duplicate;]

[(f) where the plaintiff fails to comply with the provisions of rule 9:]

Provided that the time fixed by the Court for the correction of the valuation or supplying of the requisite stamp-paper shall not be extended unless the Court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp-paper, as the case may be, within the time fixed by the Court and that refusal to extend such time would cause grave injustice to the plaintiff.

10. As rightly pointed out by the learned counsel appearing for the respondent herein, in the instant case there is no dispute with regard to institution of marriage and there is a dispute between the parties in a civil nature for declaration of rights of legally wedded wife. The decision in ***R.Kasthuri's case*** (*supra*) squarely applies to the facts of the present case. In the case on hand, the suit not being covered under the provisions of Section 7 of the Family Courts Act,



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it cannot be said to be barred under Section 8 of the said Act for the Civil Courts to exercise their jurisdiction. In the light of the reasons assigned above, this Civil Revision Petition lacks merit and deserves dismissal.

11. In the result, this Civil Revision Petition stands dismissed, confirming the order of the XXIII Assistant City Civil Court, Chennai dated 28.07.2025 made in I.A.No.3 of 2024 in O.S.No.6025 of 2024. No costs. Consequently, connected miscellaneous petition is also dismissed.

26.09.2025

Intex : Yes/No

Internet : Yes/No

Jvm

M.JOTHIRAMAN, J.

Jvm

To
XXIII Assistant Judge, City Civil Court,
Chennai.



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