

C.R.P.(PD)(MD)No.1834 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2025

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CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P(PD)(MD)No.1834 of 2024

and

C.M.P(MD) No.10291 of 2024

Radha

... Petitioner/Respondent/
Respondent/Petitioner

Vs.

Selvakumar

... Respondent/Petitioner/
Petitioner/Respondent

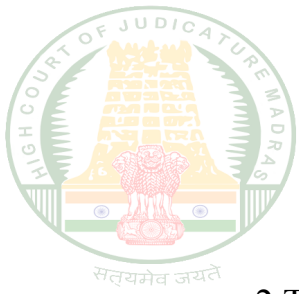
PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records in E.P.No.139 of 2023 in I.A.No.60 of 2020 in H.M.O.P.No.188 of 2020 on the file of the Sub Court, Thoothukudi, and struck off the same and thereby allow the Revision Petition.

For Petitioner : Mr.M.Prabhu

For Respondent : Mr.I.Robert Chandra Kumar

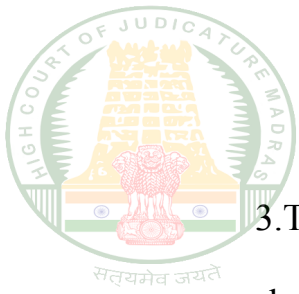
ORDER

This Civil Revision Petition is filed to strike off the proceedings in E.P.No.139 of 2023 in I.A.No.60 of 2020 in H.M.O.P.No.188 of 2020 on the file of the Sub Court, Thoothukudi.



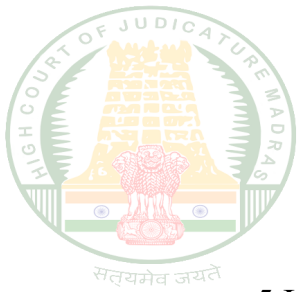
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2.The petitioner and the respondent got married in the year 1999. Thereafter, they blessed with two children. At the time of marriage, the respondent employed as Conductor and the petitioner was a house wife. The second child died in an accident. Thereafter, there arose matrimonial dispute between the petitioner and the respondent and they were living separately. During such time, the petitioner was appointed in the Tamil Nadu Police Department in the year 2009. The respondent filed H.M.O.P.No.188 of 2020 on the file of the Sub Court, Kovilpatti for restitution of conjugal rights and the petitioner filed a petition for divorce in H.M.O.P.No.172 of 2021 before the Family Court, Tirunelveli. Both the petitions were tried differently by different Courts. The petition filed by the petitioner seeking decree of divorce was allowed and the petitioner filed by the respondent for restitution of conjugal rights was dismissed. In the meantime, the respondent/husband filed an interlocutory application in I.A.No.60 of 2020 claiming maintenance. The said application was allowed *ex-prate* in favour of the respondent. Thereafter, the respondent filed an execution petition for recovery of the amount from the salary of the petitioner the said petition was also allowed. Challenging the same, the petitioner has filed the present Civil Revision Petition.



3.The learned counsel for the petitioner submitted that the respondent/husband completely deserted the petitioner/wife and the petitioner suffered with undue hardship by the respondent. With great effort, the petitioner secured a job in the Tamil Nadu Police Department and she is maintaining herself as well as his son with that income. It is the duty caste upon the respondent/husband to maintain his wife and children even after the grant of divorce. However, the respondent failed to maintain his family. Whereas, the trial Court without considering all these aspects, passed the *ex-parte* order in favour of the respondent directing the petitioner to pay maintenance to the respondent. Hence, she prayed for appropriate orders.

4.Per contra, the learned counsel for the respondent would submit that immediately after the marriage, the respondent was employed as Conductor. Due to an accident, the respondent became handicapped. Hence, he was not able to do any job. Hence, he filed an application before the trial court seeking maintenance from the petitioner. The trial Court considering the facts and circumstances of the case, directed the petitioner to pay maintenance to the respondent and the same need not be interfered. He would further submit that due to non appearance of the petitioner, the application filed by the respondent for grant of maintenance was allowed in favour of the respondent. On basis of that order, the respondent filed execution petition.



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5. Heard the learned counsel appearing on either side and perused the materials placed on record.

6. The facts in the present case are not in dispute. The challenge in this Civil Revision Petition is to the award of maintenance to the husband, by the wife. Section 24 of the Hindu Marriage Act provides that maintenance can be claimed either by the wife or the husband. But, whether it can be granted to the husband is what is to be considered. The key factor is whether the husband is truly dependent on his wife for financial support. If he is capable of earning but chooses not to, his claim will likely be rejected.

7. In the present case, it is the claim of the husband that he has become handicapped and he is not able to do any job for maintaining himself. Hence, the maintenance should be awarded to him from the hands of the wife, since she is working in the Tamil Nadu Police Department. For claiming maintenance, the respondent/husband must demonstrate to the court that he is unable to earn and support his family due to a physical or mental disability. However, the respondent failed to demonstrate such disability either physical or mental which incapacitates him from earning money by finding a job for himself. In such circumstances, the order passed by the trial Court is not sustainable.



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8. Accordingly, this Civil Revision Petition is allowed and the order passed in I.A.No.60 of 2020 is hereby set aside. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

08.07.2025

Index : Yes/No
Internet : Yes / No
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To

1. The Sub Court,
Thoothukudi.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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