



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2025

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.R.P.(MD)No.1795 of 2024

1.S.Pandiyammal

2.Minor R.Pon Ayyachami

...Petitioners

Vs.

1.Saroja

2.Chandra

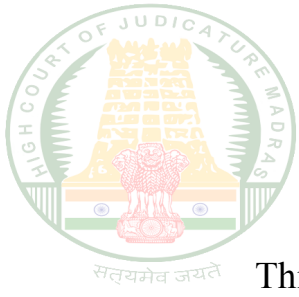
3.Premlatha

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to call for the records relating to the order passed by the IV Additional District and Sessions Court, Madurai in CrI.A.No.96 of 2021 on 30.01.2024 against the order dated 13.07.2021 made in D.V.C.No.6 of 2020 on the file of the learned Judicial Magistrate II, Usilampatti and set aside the same.

For Petitioners : Mr.J.Selvam

For Respondents : Mr.R.Venkatesan



ORDER

This Civil Revision Petition has been filed to set aside the order passed by the IV Additional District and Sessions Court, Madurai, in Criminal Appeal No.96 of 2021, dated 30.01.2024, confirming the order dated 13.07.2021 made in D.V.C. No.6 of 2020 on the file of the learned Judicial Magistrate II, Usilampatti.

2. The petitioners herein filed a petition in D.V.C.No.6 of 2020 before the learned Judicial Magistrate II Usilampatti, under Section 12 of the Protection of Women from Domestic Violence Act, 2005, against the respondents. The said petition was dismissed on 13.07.2021. Aggrieved by the same, the petitioners filed Criminal Appeal No.96 of 2021 before the learned IV Additional District and Sessions Judge, Madurai, which was also dismissed on 30.01.2024. Challenging the said orders, the present Civil Revision Petition has been filed.

3. The learned counsel appearing for the petitioners submitted that the first petitioner is the wife of one Suresh Kumar. Prior to her marriage with Suresh Kumar, the first petitioner was married to one Ayyar, and through that wedlock, she was blessed with four children. Subsequently, with the blessings of the first respondent, the marriage between the first petitioner and the said Suresh Kumar was solemnized in the year 2018, allegedly suppressing the health issues faced by Suresh Kumar. The said Suresh Kumar passed away on



26.06.2020. The second petitioner was born out of the said wedlock. It was further submitted that after the demise of Suresh Kumar, the petitioners were repeatedly prevented by the first respondent from entering the matrimonial house and were driven out. Consequently, they filed a petition under the Domestic Violence Act, which was dismissed by the trial Court. The appeal before the lower appellate Court was also dismissed. The learned counsel contended that the Courts below failed to consider the relevant facts and legal entitlements, particularly that the first petitioner, being the daughter-in-law of the first respondent, is entitled to reside in the shared household as defined under the Act. Hence, the impugned orders are not sustainable in law, and the petition deserves to be allowed.

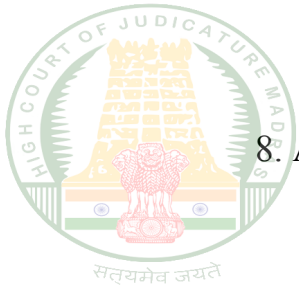
4. Per contra, the learned counsel appearing for the respondents submitted that the alleged marriage between the first petitioner and the deceased Suresh Kumar was solemnized in the year 2018, without the first petitioner obtaining a divorce from her earlier husband Ayyar. Therefore, the subsequent marriage is legally invalid. Further, the child born in 2020 raises a question of paternity, which involves factual determination. It was also pointed out that the first petitioner herself admitted that she and Suresh Kumar were residing in Theni and not with the respondents. Only after Suresh Kumar's death, the petitioners attempted to enter the respondents' premises, which is impermissible under law.



5. On consideration, it is seen that the marriage of the first petitioner with Suresh Kumar took place in 2018, allegedly with the blessings of the first respondent. However, the first petitioner had four children from her earlier marriage, and after her alleged second marriage with Suresh Kumar, she was blessed with another child. The first petitioner admitted to residing in Theni with Suresh Kumar and not with the respondents. Only after Suresh Kumar's demise did she attempt to enter the residence of the first respondent, claiming a right of residence.

6. It is noted that although the petitioners invoked Sections 3 and 4 of the Protection of Women from Domestic Violence Act, no evidence was produced before the trial Court in support of the allegations. Hence, the trial Court rightly dismissed the D.V.C., and the lower appellate Court rightly confirmed the same. This Court finds no reason to interfere with the concurrent findings of the Courts below.

7. However, the petitioners are granted liberty to work out their remedies, if any, in accordance with law, with respect to any claim of share in the property alleged to be owned by the respondents.



8. Accordingly, the Civil Revision Petition is dismissed. No costs.

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10.07.2025

Internet:Yes/No

Index:Yes/No

TSG

To

1.The IV Additional District and Sessions Court, Madurai.

2.The Judicial Magistrate II, Usilampatti.

3.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.1795 of 2



M.DHANDAPANI, J.

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C.R.P.(MD)No.1795 of 2024

10.07.2025