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A No. 2477 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 27.02.2026

Pronounced on: 17.04.2026

CORAM

THE HON'BLE MR.JUSTICE P. DHANABAL

A No. 2477 of 2025

in

C.S. No.167 of 2024

C.Sekar

.Applicant(s)

Vs

1.Anuradha
2.S.Loganathan
3.R.Jayabharathi
4.B.L.Shanthi
5.M.Soundararajan
6.C.Gopinath
7.Dillirani
8.G.Anitha

..Respondent(s)

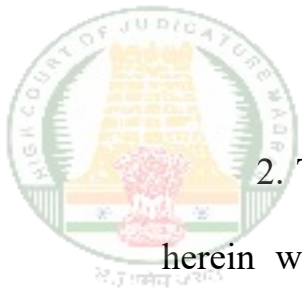
Prayer:- Application is filed under Order IV Rule (1) of O.S.Rules r/w Order VII Rule 1 of C.P.C., to return the plaint in CS No. 167 of 2024 to be filed before the Family Court.

For Applicant(s):
For Respondent(s):

Mr.Avinash Wadhwani
M/s.S.P.Aarthi -R1
M/s.Srividhya & Aravindhan- R5
R2 to R4 – served
R6 to R8 – No appearance

ORDER

This application has been filed by the petitioner to return the plaint in CS No. 167 of 2024 to be filed before the Family Court.



2. The applicant is the first defendant in the suit and the first respondent herein who is the plaintiff has filed a suit for declaration and permanent injunction and for other reliefs. According to the petitioner the first respondent is the husband of the petitioner herein and he filed suit to declare the settlement deed dated 06.06.2011 as null and void. The first respondent has suppressed the caveat filed by the petitioner and obtained ex parte interim order and the first respondent in his plaint stated that the marriage was solemnized on 20.01.2006 and they have children out of wedlock and according to him the petitioner had suppressed the earlier marriage from him and that his marriage is not valid as the previous marriage was subsisting on the date of their marriage. No such relief has been prayed by the first respondent, however filed the suit challenging the settlement deed for declaration of title of the property and for other relief. As per Section 7 of the Family Courts Act a suit or proceedings between the parties to a marriage with respect to the property amongst ought to be filed only before the Family Court. As per Section 8 of the Family Courts Act all jurisdiction covered under Section 7 of the Family Court Act shall be excluded from the purview of the jurisdiction of the civil Court. Now the first respondent is challenging the very validity of marriage to the petitioner though no relief has been sought for the same fulcum of the very case, therefore the suit is to be presented before the Family Court and the present suit has to be returned.



3. According to the first respondent he denied all the averments made in the affidavit. The first respondent who is plaintiff has filed a suit for declaration declaring the settlement deed in favour of the defendants as null and void and the sale deed executed by the first defendant in favour of the defendants 5 to 8 are sham and nominal and to declare the plaintiff as owner of 'B' schedule property and also for permanent injunction. Already the first respondent filed petition for divorce and the same is pending. The pleadings set out in the plaint are focussed squarely challenging the validity of the settlement deed and the subsequent deeds and thereby this Court has jurisdiction and the Section 7 of the Family Court Act would apply to suit directly relating to matrimonial relief or marital relief. The pleadings in the plaint would show that the marital background such as the applicant inducing the petitioner into relationship suppressing the earlier marriage and misusing the marital time to secure property in her name is incidental. The facts pleaded for show causing the fraud and misrepresentation purported by the applicant in executing the settlement deed in her favour. Even if the marriage between the parties is disputed the right of the first respondent to challenge the settlement deed and subsequent sale deeds exist independently which exclusively falls under the jurisdiction of civil Court therefore the petition is not maintainable and liable to be dismissed.

4. This Court heard both sides and perused the materials available on record.



5. In this case there is no dispute that the petitioner and the first respondent are husband and wife and their marriage took place on 20.01.2006.

Now the first respondent being husband of the petitioner filed suit for the relief of declaration and permanent injunction and for other reliefs. According to the applicant as per Section 7 of the Family Courts Act the suit is not maintainable before this Court and the first respondent ought to have filed the suit before the Family Court.

6. For ready reference Section 7 and 8 of the Family Courts Act is extracted hereunder:

“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 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.

Section 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 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. From the bare reading of the above said provision it is clear that the suit or proceedings between the parties to marriage with respect to the properties of the parties ought to be filed before the Family Court. As per Section 8 of the Family Courts Act the jurisdiction of the others Court in respect of family matters are excluded.

8. At this juncture it is relevant to refer the judgment submitted by the learned counsel appearing for the applicant.



a) Balram yadav -vs- Fulmaniya Yadav, where in the Hon'ble Subreme court in para 6 and 7 hearin as follows:

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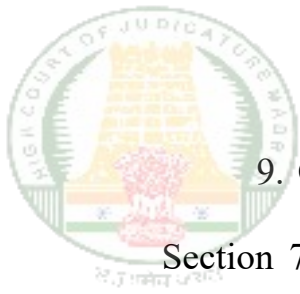
6. Section 20 of the Family Courts Act, 1984 provides for overriding effect of the Act on other laws or instruments having the effect of law. The said Section reads as follows:-

S 20. Act to have overriding effect- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Under Section 7(1) Explanation (b), a Suit or a proceeding for a declaration as to the validity of both marriage and matrimonial status of a person is within the exclusive jurisdiction of the Family Court, since under Section 8, all those jurisdictions covered under Section 7 are excluded from the purview of the jurisdiction of the Civil Courts. In case, there is a dispute on the matrimonial status of any person, a declaration in that regard has to be sought only before the Family Court. It makes no difference as to whether it is an affirmative relief or a negative relief. What is important is the declaration regarding the matrimonial status. Section 20 also endorses the view which we have taken, since the Family Courts Act, 1984, has an overriding effect on other laws.

b) Roja .vs. Dr. Ramadas Ramkumar and another reported in 2025 SCC

Online Mad8563



9. On careful perusal of the above said judgments it is clear that as per Section 7 of the Family Courts Act any dispute relating to property held by husband and wife jointly or individually can only be instituted before the Family Court. The jurisdiction of other courts is also expressly excluded under section 8 of Family Court Act. The dispute in this case is also between husband and wife in respect of property settled in favour of the wife by the husband and for declaration of title of the property. Though some 3rd parties also impleaded as parties to the suit, the main issue is between the husband and wife therefore Section 7 of the Family Court Act would apply and jurisdiction of the family court is excluded under section 8 of Family Court Act.

10. In view of the said discussion and the judgment referred the suit ought to have been presented before the Jurisdictional family court, this court having original civil jurisdiction need not entertain the suit. Hence this petition is allowed and the suit returned. Time for representation 2 months.

17.04.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MJS



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P.DHANABAL, J.

MJS

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