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(2009) 01 MAD CK 0058

In the Madras High Court

Case No : C.R.P. (PD) No. 1603 of 2008 and M.P. No. 1 of 2008

Parvathi — APPELLANT

Vs

P. Jayabalakrishnan — RESPONDENT

Date of Decision : 19-01-2009

Acts Referred:
Family Courts Act, 1984 — Section 8

Citation : (2009) 01 MAD CK 0058

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : S. Chandrasekar, for the Appellant; No appearance, for the Respondent

Judgement

G. Rajasuria, J.—Animadverting upon the order dated 10.12.2007 passed by the learned I Additional District Munsif, Coimbatore, in I.A.

No. 1337 of 2006 in O.S. No. 1416 of 2006, this civil revision petition is focussed.

2. Heard both sides.

3. A summation and summarisation of the relevant facts which are absolutely necessary and germane for the disposal of this revision petition would

run thus:

The respondent/husband filed the suit O.S. No. 1416 of 2006 before the I Additional District Munsif Court, Coimbatore as against his

wife/revision petitioner herein seeking the following reliefs:

a) restraining the defendant, her family member, servants, agents not to disturb the peaceful possession and enjoyment of the suit properties as well

as his by way of permanent injunction;

b) award cost of suit.

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4. After making appearance in the suit, the revision petitioner herein filed I.A. No. 1337 of 2006 for rejection of the plaint on the ground that such

a plaint is barred u/s 8(a) of the Family Courts Act, 1984. However, the trial Court dismissed the petition, whereupon, this revision is focussed on

various grounds.

5. The learned Counsel for the revision petitioner would develop his argument placing reliance of the grounds of revision to the effect that the

Family Court is the exclusive forum to decide matrimonial matters and the trial Court was not justified in entertaining the suit as though the husband

prayed only for common law remedy.

6. A bare perusal of the plaint would clearly indicate that the husband approached the District Munsif Court with his grievance that the wife was

causing disturbance to him in connection with some family dispute. The learned Counsel for the revision petitioner also during arguments highlighted

and pointed out that at present divorce petition at the instance of the husband is pending before the Family Court, Coimbatore. When such is the

position, this Court need not go into the other aspects relating to the maintainability of the suit before the District Munsif Court for permanent

injunction etc.

7. The Family Court which is seized of the divorce petition in all fairness and by long orders would be the most appropriate forum to deal with this

suit also and it is quite obvious and axiomatic and no more elaboration is required. Under the Family Courts Act mediation, conciliation etc., are

contemplated and hence in this view of the matter, I would like to pass the following direction:

The order passed by the lower Court is set aside and the learned I Additional District Munsif, Coimbatore is directed to send the records relating

to O.S. No. 1416 of 2006 to the Family Court, Coimbatore, whereupon the Family Court, Coimbatore shall deal with the matter as per law.

Accordingly, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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