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C.R.P.No.3798 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025

CORAM

THE HONOURABLE THIRU JUSTICE **A.D.JAGADISH CHANDIRA**

C.R.P.No.3798 of 2024
and CMP No.20793 of 2024

1.Anukarthick
2.Rangaswamy
3.Baby Rani

.... Petitioners

vs

1.R.Sowmya
2.Minor.A.Mahat

.... Respondents

Civil Revision Petition filed under Section 227 of the Constitution of India against CMP No.796 of 2023 in DVC No.14 of 2021 dated 24.07.2023 passed by Additional Mahila Court, Udthagamandalam, The Nilgiris District.

For Petitioners : Mr.MA.P.Thangavel

For Respondents : Mr.V.Rajesh

ORDER

The revision has been filed seeking to set aside the exparte order passed in CMP No.796 of 2023 in DVC No.14 of 2021 dated 24.07.2023.



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Brief Facts:-

2. The petitioners are the husband and in-laws of the first respondent/wife. The respondent/wife had filed a DVC No.14 of 2021 under Section 12 of the Protection of Women from Domestic Violence Act, 2005 before the Additional Mahila Court, Udthagamandalam. Since the petitioners did not cross examine the respondent/wife on the date fixed, the trial Court had set them exparte on 19.06.2023. Against which, the petitioners have filed CMP No.796 of 2023, seeking to set aside the exparte order dated 19.06.2023. The trial Court finding that the petitioners have not shown any sufficient cause and that the petitioners had failed to cross examine P.W.1 since 20.01.2023 and were dragging on the proceedings, had dismissed the application, against which, the present Civil Revision Petition is filed.

3. Learned counsel appearing for the petitioners would submit that originally the case was posted for cross examination of respondent/wife on 19.05.2023. Since the petitioners' advocate Mr.P.M.Krishnasamy's wife passed away, the counsel was unable to appear on 19.05.2023 and subsequently, the case was posted to 19.06.2023 and on that date, due to non-appearance of the counsel,



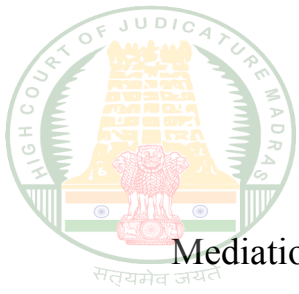
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evidence was closed. Immediately, on 03.07.2023, a petition has been filed seeking to set aside the exparte order passed against the petitioners. Learned counsel submits that non-appearance of the counsel before the Court was not wilful and thereby, he would seek to set aside the order of dismissal passed in CMP No.796 of 2023 dated 24.07.2023.

4. Per contra, learned counsel for the respondents submits that the petition filed under Article 227 of the Constitution of India is not maintainable. The order, under challenge, is an appealable order. Learned counsel further submits that DVC No.14 of 2021 got disposed of on 31.07.2023 on merits and further, when the main case DVC No.14 of 2021 itself has been disposed of, the present revision petition has become infructuous. Learned counsel further submits that when the statute provides an appeal remedy, without exhausting the remedy, the revision has been filed.

5. Heard both sides and perused the materials available on record.

6. Taking into consideration that the dispute arises out of matrimonial issues, this Court, by order dated 20.11.2024, had referred the matter to



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Mediation Centre, Coimbatore and subsequently, the Mediation has failed.

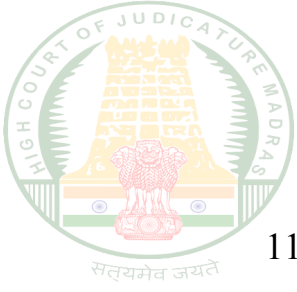
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7. From the records, it is seen that the petitioners were set exparte before the Lower Court on 24.07.2023. Subsequently, the trial Court, after considering both the oral and documentary evidences adduced on the side of the petitioners, had disposed of DVC No.14 of 2021 on 31.07.2023. The petitioners have approached this Court by way of revision under Article 227 of the Constitution of India after 14 months of passing of the order dated 24.07.2023.

8. When the statute provides an appeal remedy and the petitioners, without exhausting the remedy, have approached this Court, this Court finds that the revision is not maintainable.

9. Therefore, the Civil Revision Petition is dismissed.

10. It is now reported by the learned counsel for the petitioners that the petitioners have filed an application seeking to set aside the final order passed in DVC No.14 of 2021 dated 31.07.2023 and it is pending.



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11. In view of the above, the Civil Revision Petition stands dismissed as not maintainable, however, now that the petition filed by the petitioner seeking to set aside the order dated 31.07.2023 in DVC No.14 of 2021 is pending, the learned trial Judge is directed to hear and dispose the same in accordance with law and pass orders within a period of four weeks from the date of receipt of a copy of this order.

No cost. Consequently, connected miscellaneous petition is closed.

06.02.2025

sr

Index:yes/no

website:yes/no

To

The Additional Mahila Court (FAC)
Udhagamandalam



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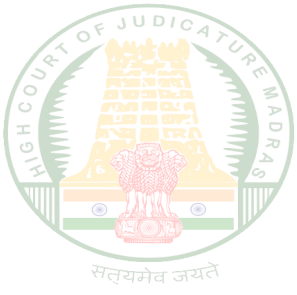
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The Civil Revision Petition, having been disposed on 27.02.2025, now stands listed under the caption "for being mentioned".

2. There appears to be some typographical errors in the cause title of the order and thereby, the same shall be read as under:-

"1.Arun Karthick
2.Rangaswamy
3.Baby Rani

...Petitioner

Vs.

1.R.Sowmya
2.Minor A.Mahat
(Minor Rep., by natural guardian/Next friend/
Mother/R.Sowmya) Respondents"

4. Rest of the order holds good. The Registry is directed to carry out necessary correction in the order and issue fresh copy of the order.

30.05.2025

Note: Issue fresh order copy forthwith.

raa

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raa

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CMP No.20793 of 2024**

30.05.2025