

Civ Suit 1220/22
MAMTA Vs. KOMAL (DAUGHTER IN LAW)

11.10.2022

Fresh suit received by way of assignment. It be checked and registered as per rules.

Present: Sh. Mahesh Chand, Ld. counsel for the plaintiff.

The perusal of the case file further shows that in the memo of parties and para no.3 of the plaint, the plaintiff has admitted that defendant no.1 i.e. Komal is the daughter in law of the plaintiff.

In view of the judgment *Avneet Kaur v Sadhu Singh*, CM(M) No.69/2020 and CM APPL No.2707/2020, passed by the Hon'ble High Court of Delhi has settled the law on such matters. **The judgment is directive that the proper forum to the approach in civil matters "arising out of a matrimonial relationship" would exclusively be the Family Courts.** The relevant paras are reproduce below :-

“23... There is nothing in clause (d) of the explanation to the Section 7(1) of the Family Courts Act in which it indicates that the clause would apply only where litigation is between husband and wife. **For the clause to apply all that is required is that (i) there is marital relationship; (ii) the marital relationship has resulted in certain set of circumstances; and (iii) the order or injunction which is sought in a suit is sought in those circumstances.**

24... The fact **that the petitioner married the respondent's son was the foundation of a relationship** that emerged between the petitioner and the respondents and it was in the circumstances which arose out of that relationship that the entire dispute between the respondent and the petitioner has further allegations contained in the plaint, filed by the respondents arose.

27... **All that is required is that the circumstances in which the injunctions is sought arose out of the marital relationship.**

31. It is also a well settled jurisprudential principle that **where special**

courts or tribunals are set up and disputes regarding jurisdiction arise, the attempt should be to confer jurisdiction on such special courts or tribunals rather than to exclude their jurisdiction.

32. The Family Court being set up to deal with disputes which arise within the structure and in the context of a marital relationship, the court while interpreting the jurisdiction clause (d) of the explanation to Section 7(1) of the Family Courts Act has in my view to attempt to bring the dispute within the jurisdiction of a Family court rather than to exclude the dispute from such jurisdiction.”

In view of aforesaid, the plaintiff is directed to approach the appropriate forum i.e. The Family Courts of the District to seek their remedy.

Further, perusal of record shows that in para no.14 of her plaint, the plaintiff has valued the suit at Rs.18 lac which is beyond the pecuniary jurisdiction of this court.

Further, by way of prayer clause 'b' of the plaint, the plaintiff has sought to restrain the defendants from entering into area of 100 meters around the property and not merely within the property which is not specifically enforceable under Section 41(e) of the Specific Relief Act, 1963.

In view of the above, the present plaint is rejected under Order VII Rule 11(d) of the CPC r/w Section 41(e) and (h) of the Specific Relief Act, 1963.

After preparation of decree sheet by the Reader, the file shall be consigned to the record room.

(Aakash Mohan Singh)
Civil Judge-01 (Shahdara)
KKD Courts/11.10.2022