



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE BASANT BALAJI

TUESDAY, THE 11TH DAY OF FEBRUARY 2025 / 22ND MAGHA, 1946

CRP NO. 28 OF 2025

AGAINST THE ORDER/JUDGMENT DATED 12.11.2024 IN OS NO.334
OF 2024 OF MUNSIFF COURT, PARAPPANANGADI

REVISION PETITIONERS:

- 1 SHAFANATH
 AGED 35 YEARS
 D/O THOTTATHIL SHEREEF HAJI, SAFA HOUSE, 11TH MAIL,
 CHERUKAVU, PENGADU, VAIDYARANGADI POST, KONDOTTY,
 MALAPPURAM, PIN - 673633

- 2 THOTTATHIL SHEREEF HAJI
 AGED 72 YEARS
 S/O MUHAMMEDKUTTY HAJI, SAFA HOUSE, 11TH MAIL,
 CHERUKAVU, PENGADU, VAIDYARANGADI POST, KONDOTTY,
 MALAPPURAM, PIN - 673633

BY ADVS.
THAREEQ ANVER K.
K.SALMA JENNATH
ARUN CHAND
RASSAL JANARDHANAN A.
K.C.KHAMARUNNISA

RESPONDENT:

MUHAMMED HARIS K.T.
AGED 39 YEARS
S/O ABBAS, KUNNATHODI HOUSE, CHERUVAYUR,
CHALIYAPRAM, KONDOTTY, MALAPPURAM, PIN - 673654



**BY ADVS.
FIROZ K.M.
M.SHAJNA(K/1017/2006)
P.C.MUHAMMED NOUSHIQ(K/000564/2017)**

**THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION
ON 11.02.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

**ORDER**

Dated this the 11th day of February, 2025

The defenants 1 and 2 in O.S. No. 334 of 2024 on the files of the Munsiff's Court, Parappanangadi are the petitioners. The suit was filed by the respondent as plaintiff seeking permanent prohibitory injunction from possible eviction and interfering with the business in the plaint schedule property otherwise than due process of law.

2. The 1st petitioner is the wife of the respondent and the 2nd petitioner is the father of the 1st petitioner. 1st petitioner and the respondent are having matrimonial disputes between them. When an application filed under Order 39 Rule 1 came up for consideration before the learned Munsiff, the defendant raised a contention that the court does not have jurisdiction and the issue of maintainability has to be heard first. Therefore, an issue was raised as to the



maintainability of the case before the court in view of Section 7 of the Family Courts Act.

3. The court below having heard the learned Counsel for the petitioner as well as the learned Counsel for the respondent and taking note of the intent of Section 7 of the Family Courts Act, came to the conclusion that the suit document which is a lease agreement between the plaintiff and the 1st defendant therein has nothing to do with the marital relationship with the plaintiff and the 2nd defendant and it is purely a business commercial transaction between the father-in-law and son-in-law. Hence, it cannot be termed as a suit or proceeding arising out of martial relationship and therefore, it is not barred under Section 7 of the Family Court Act.

4. Sri. Thareeq Anverk, the learned Counsel for the petitioner argued that the 1st respondent being the husband of the 1st petitioner was given the plaint



schedule property to conduct a dental clinic because of the marital relationship between them. Section 7 Sub Clause (c) of the Family Court Act covers a suit or proceedings between the parties to a marriage with respect to the property of the parties or either of them. Sub Clause (d) of the said Section deals with suit or proceedings for an order or injunction in circumstances arising out of a martial relationship. Being so, the present suit filed for an injunction, definitely will come under Sub Clause (d) as the proceedings have initiated because of the circumstances out of the martial relationship. The first petitioner and the respondent are conducting business together, and the lease agreement executed between the 2nd petitioner and the respondent is to give effect to the suit conduct by the couple with and the martial relationship between them.

5. The learned Counsel relied on judgment of this Court in ***Mini v. Sivaraman*** (2020 (6) KLT 44), ***P.T.***



Phillipose v. Sunil Jacob (2022 (2) KLT 234) and ***Isahack v. Mini*** (2024 (2) KHC 291. The short question that arise for consideration in the present revision petition is whether the lease deed executed between the 2nd petitioner and the respondent is one arising out of the marriage. To invoke Section 7 (c) or (d) of the Act, the suit or proceeding should be between the parties to the marriage with respect to the property of the parties. Admittedly, the shop room where the respondent conducted dental business belongs to the 2nd respondent, who is the father in law. The lease deed has been produced as Annexure-R1(a) through a memo. A perusal of the said lease deed would show that it is a business transaction between the 2nd petitioner and the respondent. It is a simple licence agreement giving a shop room to conduct a dental centre for 11 months. Merely because, the 1st petitioner is also a part of the dental clinic, will not by itself be brought under Section



7 (c) or (d) under the Family Court Act. Instead, to bring it within the purview of Section 7, the suit or proceedings should be one in circumstances arising out of the marital relationship.

6. In ***Mini's Case*** (Supra), a Division Bench of this Court has held that in enforcement of the proprietary right over any person is not a circumstance arising out of a marital relationship, merely because the person sought to be proceeded against happens to be the “ in-laws ” and grand children. It is also apposite to bear in mind that the marriage between the son of the plaintiffs and the 1st defendant is not an issue in question. The rights that flow out of the marriage between the 1st defendant and the son of the plaintiffs are not called in question. In such an instance, it cannot be held that the enforcement of the proprietary right of the 1st plaintiff over his daughter-in-law will be a circumstance that closely precedes, surrounds, accompanies and follows a



marital relationship. It is not the nomenclature of the relationship that will determine whether a matter falls under S 7(1) Expln. (d) or not. Nomenclature of the relationship will be relevant for matters coming under S.7(1) Expln. (c) while what is relevant for S.7(1) Expln. (d) is the nature of the case and the cause of action stated.

7. In ***Phillipose's Case*** (Supra), also a similar issue came up for consideration before another division bench of this Court wherein it was held every transaction by either of the spouse or by both of them with the in-laws or relatives cannot be termed as in circumstances arising out of a marital relationship. There may be many personal or commercial transactions for either of the spouse or by both, with the in-laws or their relatives or even remotely between the family members or relatives of either spouse. Such transactions cannot have any nexus with the marriage



or marital relationship between them. At the most, we can say that the parties to that transaction got related or got acquainted with each other, because of the marriage between the spouses. But, the transaction cannot be termed as a 'circumstance arising out of the marital relationship' in order to bring it under the jurisdictional competence of a Family Court. Moreover, the cause of action arising out of such transactions, exists independently irrespective of the marital relationship.

8. A perusal as mentioned earlier, the licence agreement would show that it is purely a commercial transaction between two persons. But, coming into the facts in hand, the parties are the son-in-law and the father-in-law will not make the issue one to be tried in the Family Court. However, the cause of action will exist independently without the marital relationship also. The court below has correctly



appreciated Section 7 of the Family Court Act, holding that it is a business commercial transaction between the son-in-law and father-in-law and held that the suit is maintainable. Therefore, on going through the impugned order as well as the licence agreement, I am of the considered opinion that the court below is justified in holding that the suit is maintainable before a competent civil court.

In the result, CRP fails and is dismissed.

Sd/-
BASANT BALAJI
JUDGE

Saap



APPENDIX OF CRP 28/2025

PETITIONER ANNEXURES

Annexure 1 The true copy of the plaint dated
25.10.2024 in O.S.334/2024 on the files of
the Court of the Munsiff of Parappanangadi

RESPONDENT ANNEXURES

Annexure R1(a) true copy of the License Agreement dated
09.03.2019 executed between 2nd petitioner
and respondent