

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2018

C O R A M

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

Crl.R.C.No.1396 of 2017
and
Crl.M.P.No.15844 of 2017

B.Gajendran ... Petitioner

Vs.

1.G.Adhilakshmi

2.Master G.Prannavakhanth ... Respondents
(represented by his mother
G.Adhilakshmi)

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, against the order dated 04.09.2017 and made in M.P.No.137 of 2016 in M.C.No.166 of 2013, on the file of the learned Family Court (VII Additional Principal Judge), Chennai.

For Petitioner : Mr.K.V.Subramanian, Senior Counsel
for Mr.M.Mohammed Shafi

For Respondents : Mr.S.Madhusudanan

सत्यमेव जयते
O R D E R

The 1st respondent wife has filed an application in M.P.No.137 of 2016 for enhancement of the monthly maintenance from Rs.15,000/- to Rs.1,01,000/-. While pendency of the application in M.P.No.137 of 2016, the 1st respondent / wife has filed an application in M.P.No.330 of 2017 in which the 1st respondent/wife has filed 8 documents for marking the said document in the M.P.No.137 of 2016.

2.The learned counsel for the 1st respondent/wife stated that the application was allowed, but she has not produced the copy of the order. When the order has been passed in M.P.No.137 of 2016 dated 04.09.2017, it was not reflected about the marking

of the documents and there is also no discussion. But, without any documents produced by the 1st respondent / wife in M.P.No.137 of 2016, the learned Judge has allowed the application and direct the petitioner / husband, who is the respondent in the Court below to pay a sum of Rs.50,000/- to the respondents 1 and 2. The said order was challenged by the petitioner/husband before this Court.

3.When this Court has perused the order in M.P.No.137 of 2016 it would clearly states in the last portion of the order it is mentioned as both sides list of witnesses and exhibits -Nil-.

4.The learned counsel for the petitioner/husband also informed that this Court though the application in M.P.No.330 of 2017 was allowed, but it was not marked in the M.P.No.137 of 2016. The respondent/wife himself had not taken any action for marking those documents.

5.I heard Mr.K.V.Subramanian, learned Senior Counsel for M/s.M.Mohammed Shafi, learned counsel for the petitioner and Mr.S.Madhusudanan, learned counsel for the respondents 1 and 2.

6.Once the application in M.P.No.330 of 2017 was allowed, it is the duty of the Court to mark the said application, since the application in M.P.No.330 of 2017, the order was passed to mark the documents viz., 8 documents in the said M.P.No.137 of 2016.

7.This Court totally unsatisfied with the order passed by the learned VII Additional Judge, Family Court, Chennai. Therefore, without marking of the documents, even the learned counsel for the 1st respondent / wife has filed documents, which was also accepted by the learned Judge in the order which was passed on 04.09.2017. Therefore, in the interest of justice, it is just and necessary to interfere in the order passed by the learned VII Additional Judge, Family Court, Chennai and the same is liable to be set aside and the matter is remand back to the Court below for re-consideration along with the documents already filed by the 1st respondent/wife in Cr1.M.P.No.330 of 2017. Both the learned counsel wants to transfer the case to any other Family Court.

8.In the result:

(a) this Criminal Revision Case is allowed and the order in M.P.No.137 of 2016 dated 04.09.2017 is set aside;

(b) this Court remand back the matter for re-consideration but not before the same Judge. Therefore,

the learned Principal Judge, Family Court, Chennai, is directed to transfer the said case in M.P.No.137 of 2016 in M.C.No.166 of 2013 to any other Judge, Family Court, Chennai, under the jurisdiction;

(c) on transferring the said application, the Court concern is directed to pass suitable orders by giving opportunity to both the parties and also by marking the documents which was already ordered in Crl.M.P.No.330 of 2017 and permit this petitioner/husband to file and mark the documents on his side;

(d) the learned Judge is directed to dispose the petition in M.P.No.137 of 2016 within a period of three months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vs

To

The Family Court,
(VII Additional Principal Judge),
Chennai.

+1cc to Mr.S.Madhusudhanan, Advocate, sr.no.10352(04/06/18)

सत्यमेव जयते

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RRK(23/04/2018)

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