

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 4026 of 2017

and

CMP. No.18824 of 2017

M. Kumaran

.. Petitioner

Vs.

P. Nandhini Devi

.. Respondent

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 24.08.2017 made in I.A. No. 1716 of 2016 in O.P. No. 4481 of 2013 on the file of the V Additional Family Court, Chennai.

For Petitioner : Mr.U. Karunakaran

For Respondent : Mr.I. Lakshmana Shankar

ORDER

The present Civil Revision Petition is filed against the fair and decreetal order dated 24.08.2017 made in I.A. No. 1716 of 2016 in O.P.

No. 4481 of 2013 on the file of the V Additional Family Court, Chennai.

2. The revision petitioner husband and the respondent wife filed petitions in O.P. No.3755/2014 and 4481/2013 respectively, for divorce. In the petition filed by the wife, she has also filed an application in I.A. No.1716 of 2016, praying to direct the respondent therein, to return the properties belonging to her that are more specifically and particularly mentioned in the schedule. In the said application, the respondent husband filed the counter affidavit, specifically denying the statement of the petitioner wife that items in Sl.No. 1 to 15 are available with her, except items in Sl.No.12 to 14. Without considering the said objection and without appreciating the facts of the case, the court below has erroneously allowed the application. Aggrieved by the same, the revision is filed before this Court, by the respondent husband.

3. Per contra, the learned counsel for the respondent would submit that the respondent is entitled for return of items Nos.1 to 15. Hence, the court below has rightly appreciated the case of the respondent and allowed the application.

4. Considered the submission of the learned counsel for both the parties and perused the material available on record.

5. It is the case of the petitioner husband that he has denied the items in Sl.No. 1 to 15, before the court below. There is no evidence to prove that the aforesaid items are available with the petitioner husband. On perusal, it is found that the court below has not discussed and rendered the findings for the denial of the petitioner.

6. Therefore, this Court has no hesitation to set aside the order passed in I.A. No.1716 of 2016 dated 24.08.2017 and remand the matter to the Family Court to decide the issue on merits, in accordance with law, within a period of twelve weeks from the date of receipt of a copy of the order.

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7. In fine, the Civil Revision Petition is allowed, with the above observation. Consequently, the connected Miscellaneous Petition is closed. No costs.

05.02.2018

Index: Yes/ No

Speaking Order/Non Speaking Order



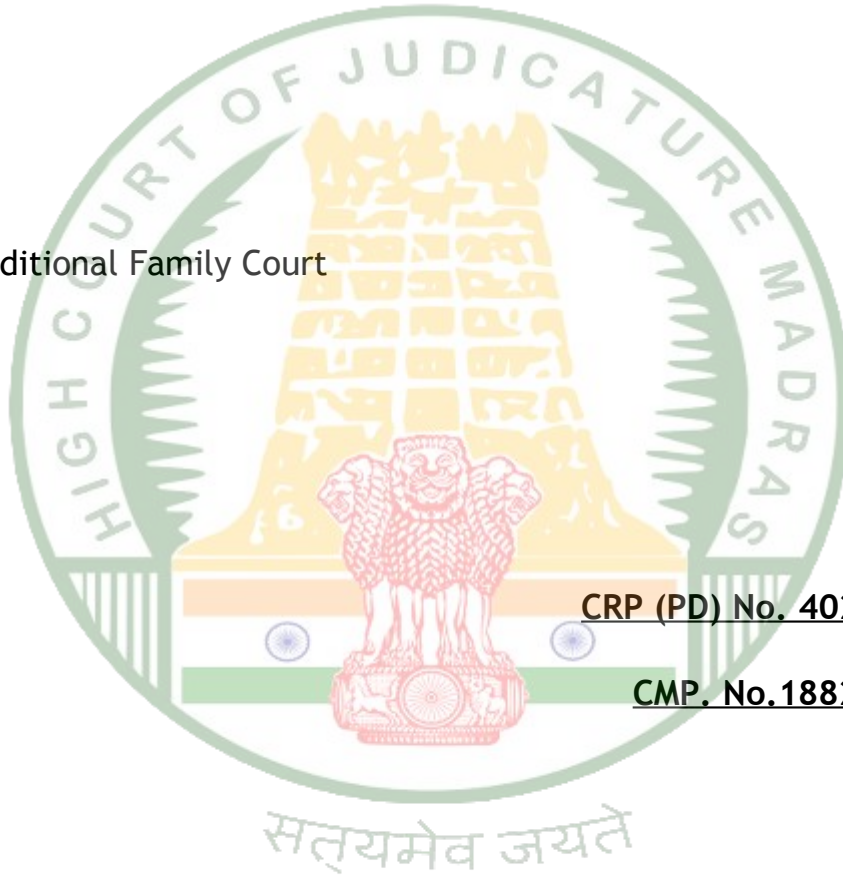
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D. KRISHNAKUMAR J.,

avr

To

The V Additional Family Court
Chennai.



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