

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No.218 of 2018
and
CMP No. 1240 of 2018

S. Chitty Babu .. Petitioner

Vs

S. Sasirekha .. Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, seeking to set aside the order and decretal order dated 06.09.2017 passed in I.A. No.1275 of 2017 in O.P. NO. 1118 OF 2014 on the file of the VI Additional Family Court, Chennai by allowing this Civil Revision Petition and pass such further orders.

For Petitioner : Mr. S. Angamuthu

For Respondent : Mr. T.C.S. Raja Chockalingam

ORDER

The petitioner has filed the present revision petition before this Court challenging the order dated 06.09.2017 passed in I.A. No.1275

of 2017 in O.P. NO. 1118 OF 2014 wherein the court below has allowed the application, observing that the respondent husband absent and inspite of sufficient time given, counter has not been filed.

2. According of the learned counsel for the revision petitioner, opportunity has not been granted to the respondent husband, by allowing the application. The said application is not maintainable, since the petitioner wife has raised a new plea in the said amendment application and a fresh cause of action raised in the amendment application. However, the court below has allowed the said application and hence the same is liable to be set aside.

3. The learned counsel for the respondent would submit that since the respondent husband was not present, no counter affidavit was filed, the court below allowed the application for amendment.

4. Considering the facts of the case and the submissions of the learned counsel for both sides, it is clear that the respondent husband has neither filed his counter affidavit nor has appeared before

the court below, the petitioner has filed the present Civil revision petition without filing appropriate application before the Court below. Hence, no interference is warranted with the order of the court below. However, it is open to the petitioner to file appropriate application before the court below, seeking his relief. In the event of filing of such application, the court below is directed to consider the same, in accordance with law, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.

5. The Civil Revision Petition is dismissed, with the above direction. Consequently, the connected Miscellaneous Petition is closed. No costs.

19.01.2018

Index : Yes/ No

Speaking order/ Non speaking order

Note: [Issue order copy on 23.01.2018]

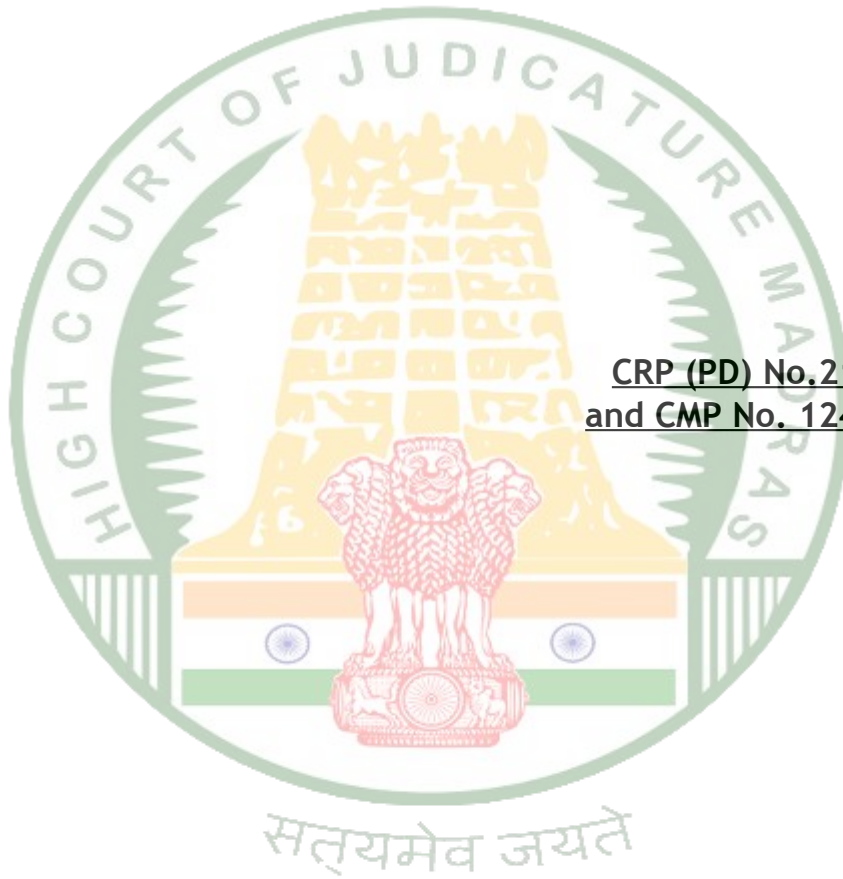
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To

The VI Additional Family Court,
Chennai

D. KRISHNAKUMAR J.,

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