

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

C.R.P.No.2429 of 2018

N.Deepa Meenakshi

..Petitioner

Vs.

S.Nagaraj

..Respondent

Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 16.07.2018 in O.P. Sr. No. 6942 of 2018 on the file of the Principal Judge, Family Court, Chennai by allowing the Revision and thereby direct the Principal Judge, Family Court, Chennai to number the O.P. Sr.No.6942 of 2018.

For Petitioner : Mr.M.Aravindan

O R D E R

The petitioner's comprehensive prayers before the trial Court are (1). seeking for dissolution of her marriage under Section 13(1) (i-a) and (2). for permanent alimony under Section 25 of the Hindu Marriage Act. The trial Court had rejected the same prior to numbering of the suit on the ground that two separate applications have to be filed, one for dissolution of the marriage and the other for permanent alimony under Section 25 of the Hindu Marriage At. Challenging the rejection, the present Civil Revision Petition has been filed.

2. Under Section 25 of the Hindu Marriage Act, the Court is empowered to pass an order of maintenance on an application filed by the wife or the husband as the case may be.

3. It is seen from the petition filed in the instant case that the petitioner had valued the relief of dissolution of marriage and the permanent maintenance separately and has also paid the respective Court fees for the same. The cause of action for dissolution of the marriage and for permanent alimony is one and the same and the parties to the litigation are also one and the same.

4. I am unable to comprehend as to how the Court below can insist for filing separate applications for the reliefs on such common cause of action, in the absence of any provisions or rules insisting such separate filing of proceedings. It is needless to point out that insisting the petitioner to file separate applications, only results in multiplicity of unwarranted proceedings, when the cause of action and the parties to the 'lis' are one and the same. The Original Petition filed can also be deemed to be an application as required under Section 25 of the Hindu Marriage Act and when the separate Court fee has been paid for the reliefs sought for, the Court below may not be justified in insisting for separate applications for such reliefs.

5. It is needless to point out that a single petition for two reliefs would only facilitate the trial Court for a fair and speedy disposal, apart from avoiding multiplicity of the proceedings.

6. In the light of the above observations, the impugned order passed by the learned Principal Judge, Family Court, Chennai in O.P. SR. No.6942 of 2018 dated 16.07.2018 is set aside. Consequently, the learned Principal Judge Family Court, Chennai is directed to instruct his registry to take up O.P SR.No.6942 of 2018 on file and number the same, if it is otherwise in order. Such an exercise shall be completed within a period of one week from the date of receipt of a copy of this order.

7. The Registry is directed to return the original petition filed, to the learned counsel for the petitioner, after obtaining photo copies of the same.

8. With the above observations and directions, the Civil Revision Petition is ordered accordingly . No costs.

Sd/-  
Deputy Registrar (CS)

//True Copy//

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Sub Assistant Registrar

ak/sni

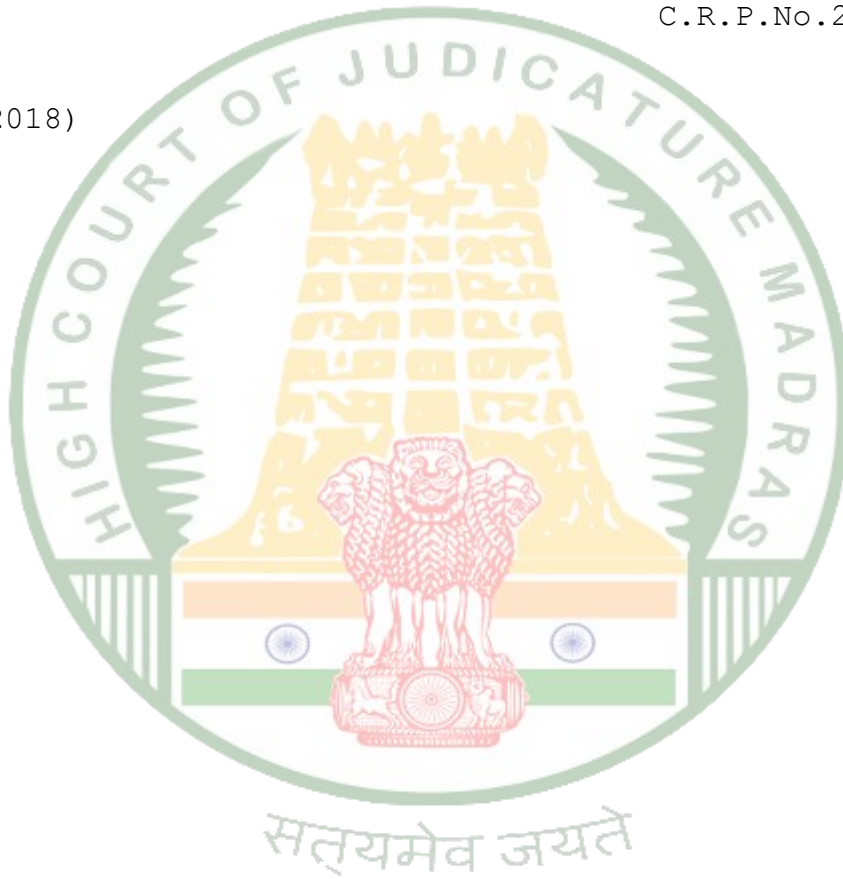
To

The Principal Judge,  
Family Court,  
Chennai.

+ 2 ccs to Mr. M. Aravindan, Advocate Sr.58647

C.R.P.No.2429 of 2018

(CS-dr)  
EU(07/09/2018)



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