

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P. (NPD) No.260 of 2018
and
C.M.P. No.1455 of 2018

Vennila

.. Petitioner

Vs.

Veeraraghavan

.. Respondent

PRAYER : Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order of the Principal Subordinate Judge, Chengalput passed in I.A. No. 93 of 2015 in HMOP No.84/2011 by the order dated 18.08.2017.

For Petitioner : Ms. V.B. Premalatha

ORDER

This revision arises against the fair and decreetal order of the Principal Subordinate Judge, Chengalput passed in I.A. No. 93 of 2015 in HMOP No.84/2011 by the order dated 18.08.2017.

2. The learned counsel for the petitioner would submit that the respondent filed HMOP No. 84 of 2011 seeking for divorce. The petitioner filed I.A. No.909 of 2012 under Order 9 Rule 7 of CPC before the court below, to set aside the ex-parte order dated 16.10.2012. According to the petitioner, when the application was pending, the court below has passed an ex-parte order on 26.11.2012 in the petition. On 17.04.2013, the court below has erroneously dismissed the application, for default. Against the said order, the petitioner filed I.A. No.93 of 2015 to restore the application in I.A.No.909/2012. The said application was dismissed by the court below. Challenging the same, the present revision is filed before this Court.

3. Heard the learned counsel for the petitioner and perused the material available on record.

4. It is clear that the petitioner has filed the application in I.A. No.909 /2012 under Order 9 Rule 7 of CPC to set aside the ex-parte order dated 16.10.2012. Subsequently, HMOP No.84/2011 came up for final hearing and the court below has passed an ex-parte order in favour

of the respondent on 26.11.2012. It is also an admitted fact that the petitioner has not chosen to file an application to set aside the ex-parte decree passed on 26.11.2012. Therefore, as rightly held by the court below, without filing an application under Order 9 Rule 13 of CPC, the application filed in the instant application to restore I.A. No.909/2012, cannot be entertained. When final decree has been passed, without challenging the said decree, the instant application filed to restore the application is liable to be dismissed. Hence, the order passed by the court below is confirmed and there is no warrant to interfere with the order.

5. Therefore, the Civil Revision Petition is dismissed. Consequently, the connected M.P is closed. No order as to costs.

29.01.2018

Index : Yes/ No

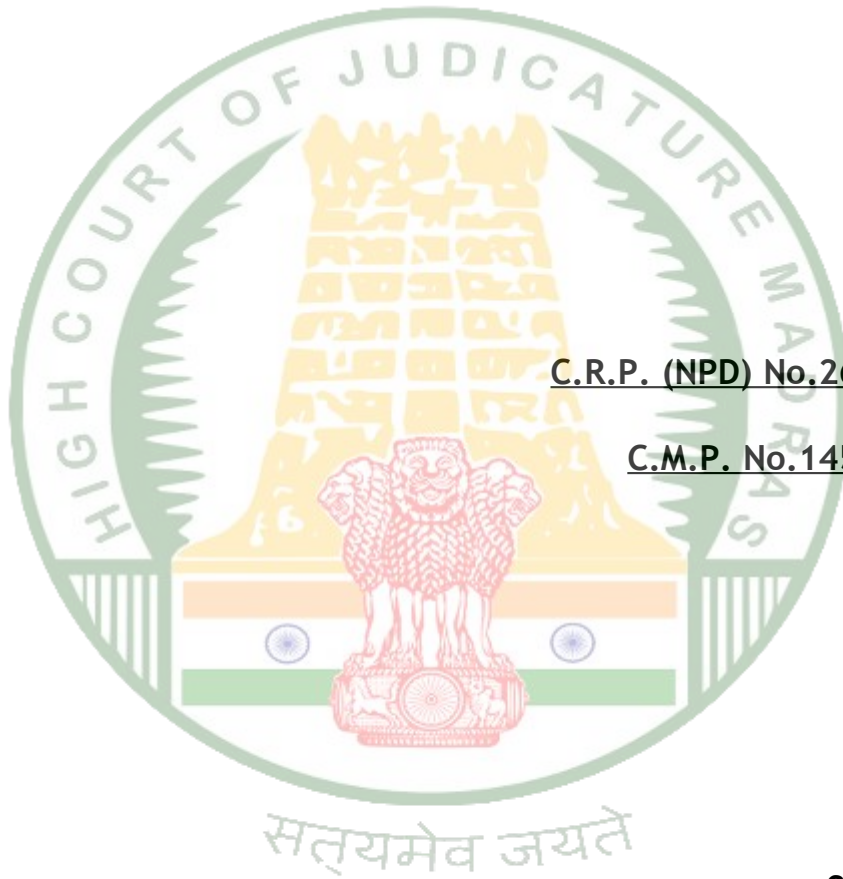
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To
The Principal Subordinate Judge
Chengalpet.

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D. KRISHNAKUMAR J.,

avr



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