

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. (PD) Nos.990 and 991 of 2018
and
CMP No.5311 of 2018

1. Savithiri
2. Sahana Selvakumar
3. Siddarth Selvakumar

.... Petitioners in
both CRPs

Versus

Dr.S.Selvakumar

.... Respondent
in both CRPs

Civil Revision Petitions filed challenging the petitions and order in I.A. Nos. 1959 and 1958 of 2015 in H.M.O.P. No.2357 of 2015 on the file of Principal Family Court at Chennai, dated 10.01.2018.

For petitioners : Mr.V.Lakshminarayanan
For respondent : Mr.A.Ganesh

COMMON ORDER

सत्यमेव जयते

By consent of both parties, both the Civil Revision Petitions are taken up together for disposal.

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2. The respondent has filed HMOP No. 2357 of 2015 before the Principal Family Court, Chennai for dissolution of the marriage solemnised with the first respondent on 26.01.1992. Pending HMOP No. 2357 of 2015, the revision petitioners herein have filed I.A. No. 1960 of 2015 for *pendente lite maintenance*.

<http://www.judis.nic.in> An order dated 09.03.2016 was passed by the Family Court granting Interim

maintenance. Contending that the Interim maintenance amount granted by the Family Court is inadequate, the revision petitioners have filed CMA No. 1213 of 2016 before this Court and by order dated 22-09-2017, the Division Bench of this Court modified the amount awarded by the Family Court. Aggrieved by the same, revision petitioners have filed Special Leave to Appeal No. 34249 of 2017. The Honourable Supreme Court, by order dated 09.01.2018, not inclined to interfere with the order passed by this Court in CMA No. 1213 of 2016, but issued a direction to the Family Court to conclude the matrimonial proceedings within a period of six months. Pursuant to the said order, the Family Court has disposed applications in I.A. Nos.1958 and 1959 of 2015 by stating that the relief sought for in the said applications has become infructuous in the light of the order passed in I.A. No.1960 of 2015, which was affirmed by the Honourable Supreme Court. Challenging the aforesaid order, the petitioners have preferred the present Civil Revision Petitions before this Court.

3. The learned counsel for the petitioners would submit that I.A. No. 1960 of 2015 was filed seeking *pendente lite* maintenance which was granted by the Family Court. On appeal, the Division Bench of this Court modified the quantum of maintenance and the same was affirmed by the Honourable Supreme Court. However, I.A. Nos. 1958 and 1959 of 2015 were filed seeking to issue a direction to the respondent/husband to produce the Bank Statement and Income Tax Statement respectively which has got nothing to do with the grant of *pendente lite* maintenance. The I.A. Nos. 1958 and 1959 of 2015 were filed to prove the income of the respondent for the purpose of determination of *permanent* alimony as

without considering the scope of I.A. Nos. 1958 and 1959 of 2015 dismissed the same, by a non-speaking order, only on the ground that the relief sought for therein have become infructuous by virtue of the order passed in I.A. No. 1960 of 2015 which was filed under Section 24 of The Hindu Marriage Act. Therefore, the order passed by the Court below is liable to be set aside by allowing the Civil Revision Petitions.

4. The learned counsel for the respondent would fairly submit that the order passed by the Family Court is a non-speaking order, without advert to the submissions made on behalf of the counsel for both sides. However, it is submitted that the Apex Court has specifically issued a direction to conclude the matrimonial proceedings within a time frame and therefore, he prayed for issuing appropriate direction to the Court below to conclude the matrimonial proceedings at the earliest.

5. Having regard to the aforesaid submissions of the counsel for both sides and in the light of the direction issued by the Honourable Supreme Court on 09.01.2018 in Special Leave to Appeal No. 34249 of 2017, by consent of both parties, this Court is inclined to pass the following orders :-

5 a) The order dated 10.01.2018 passed in I.A. Nos. 1958 and 1959 of 2015 in O.P. No. 2357 of 2015 is set aside and the matter is remanded to the file of Principal Family Court, Chennai to decide the application on merits and in accordance with law within a period of two weeks from the date of receipt of the copy of the order, after providing opportunity to the parties concerned. Learned counsel for the petitioner would submit that the respondent has already filed the counter statement in the aforesaid applications. Therefore, if any parties chooses to

file any further additional affidavit, the same can be filed within a period of one week from the date of copy of this Order.

6. Accordingly, the Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petition is also closed.

26.03.2018

Index : Yes/No

Internet : Yes / No

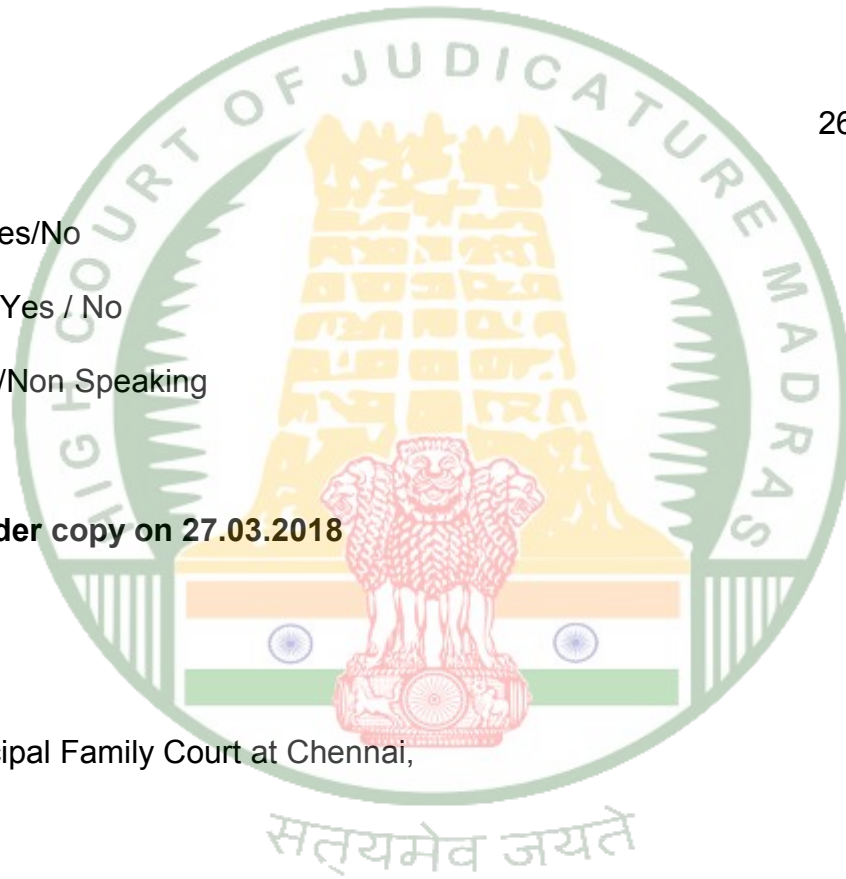
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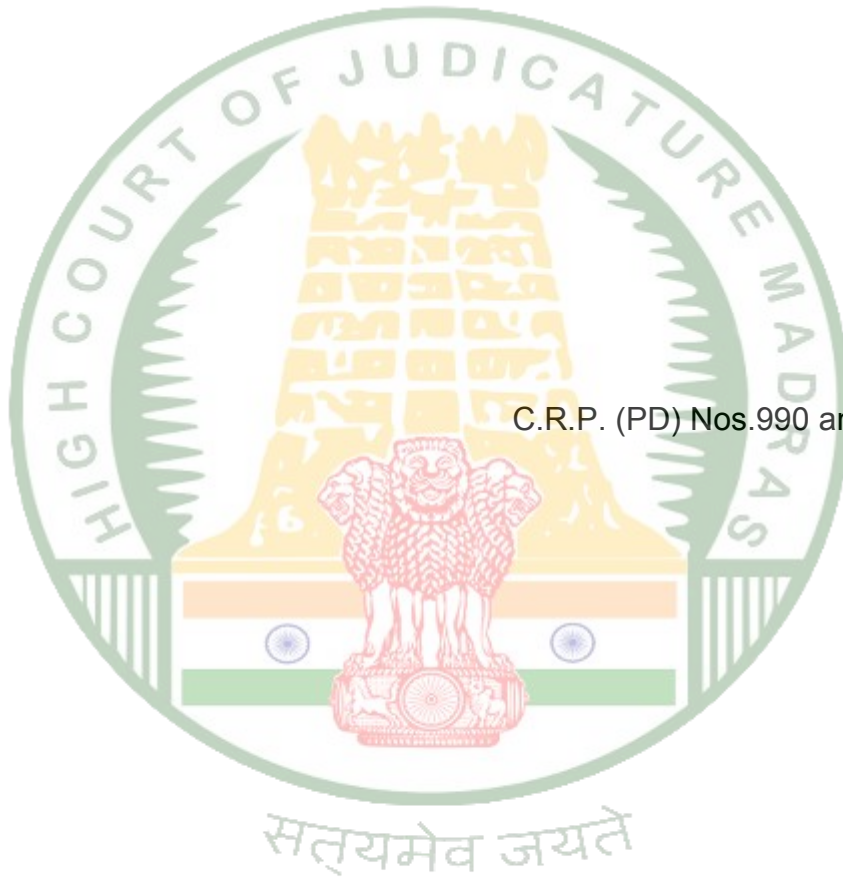
The Principal Family Court at Chennai,



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D.KRISHNAKUMAR, J.

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