

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2018

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Civil Revision Petition (PD) No.3276 of 2018 and
C.M.P.No.18582 of 2018

Mr.Arvind Ganesan

... Petitioner

..VS..

Ms.Agila Subramanian

... Respondent

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal Order dated 28.03.2018 in I.A.No.231 of 2018 in O.P.No.3792 of 2014 on the file of the VI Additional Family Court, Chennai.

For Petitioner : Ms.P.Arthi

For Respondent : Ms.K.Sumathi

ORDER

The petitioner's request for referring Ex.R.7 and Ex.R.8 for verification to an expert has been rejected in the Order under challenge.

2. According to the learned counsel for the petitioner, the averments pertaining to cruelty in the Original Petition has been denied by him in the counter affidavit wherein he has stated about existence of a journal which evidences the affection he had for his wife. The learned counsel for the petitioner submits that since the respondent herein had denied the signature in some of the pages in the diary, it is necessary that the said diary should be sent to the Forensic Expert for verifying its genuineness. The learned counsel also submits that the trial Court was not justified in observing that the Expert's opinion is not a conclusive proof and that comparison can also be done by the Court itself.

3. The learned counsel for the respondent submitted that the divorce petition was filed in the year 2014 and that the counter was filed in the year 2015 and the matter has been prolonged for a considerable time. According to her, the denial of the hand writing in some of the pages in the diary was not after reading the contents of the diary, but only on a perusal of the handwriting found in the pages. Even otherwise, the learned counsel would submit that the present application has been filed only to protract the proceedings and as such sought for dismissal of this revision.

4. I had given careful considerations to the submissions made by

the respective counsel.

5. The Family Court was of the view that the Expert's opinion was not a conclusive proof and that the handwriting in Ex.R.7 and Ex.R.8 can be done by the Court also. Such proposition is not opposed by the other side. The Evidence Act empowers the Family Court to compare the signature or handwriting found in the disputed document. The purpose for which the petitioner seeks comparison of the handwriting is to establish that the alleged cause of action for grounds of cruelty are inconsistent with the contents of the diary. Ex.R.7 and Ex.R.8 had already been marked and when the Court is empowered to examine the handwriting in any few pages, no serious prejudice would be caused to the petitioner herein, if her plea to refer the disputed signatures to an expert is rejected. The Family Court, which had already witnessed the handwriting in the diary had made this observation. The grounds of cruelty and the contents of the diary can always be established through cross examination. I am unable to appreciate the prayer in the application seeking for reference to a handwriting expert in Forensic Department in Hyderabad, when such experts are very much present in the city of Chennai itself.

6. Taking into consideration that the Original Petition has been filed in the year 2014 and the trial had also commenced in 2017, any further delay would cause serious prejudice to both the parties. As such, I do not find any infirmity in the Order of Family Court in rejecting the application filed by the

respondent in I.A.No.231 of 2018 in O.P.No.3792 of 2014.

7. Accordingly, this Civil Revision Petition is dismissed.

Consequently, the connected miscellaneous petition is closed. No cost.

27.11.2018

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Index: Yes/No

Speaking order/non speaking order

To

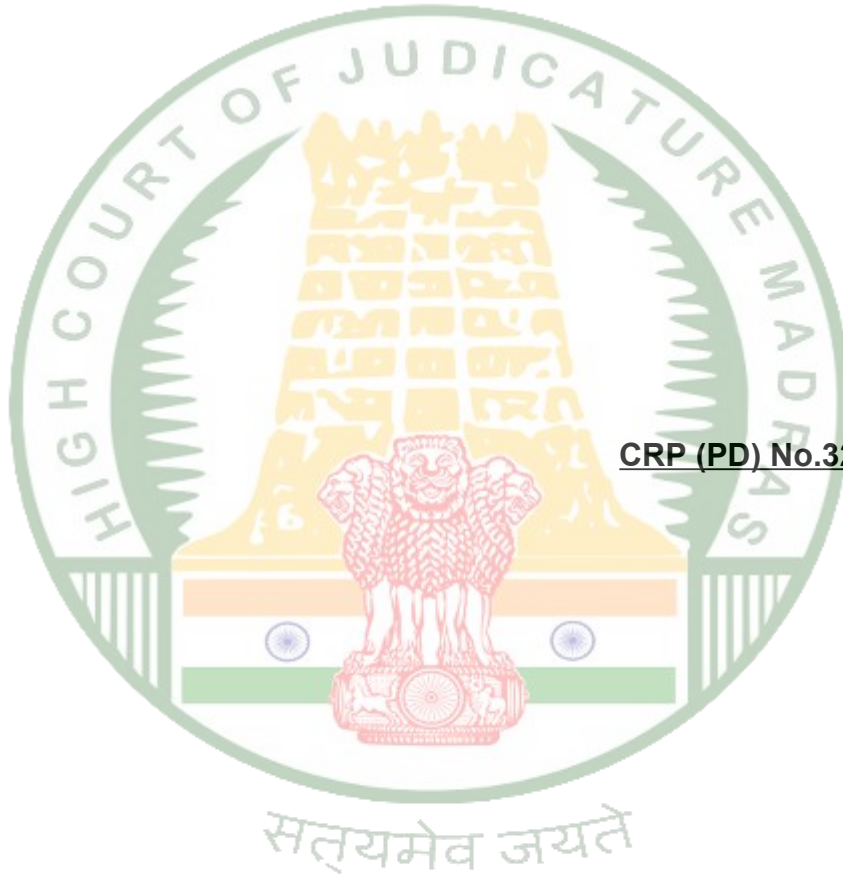
The VI Additional Judge,
Family Court, Chennai.



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M.S.RAMESH, J.

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CRP (PD) No.3276 of 2018

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27.11.2018