

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.07.2019

C O R A M

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CRP (NPD) No.2998, 2999 of 2013 and
M.P.No.1 of 2013

M.Radhika

... Petitioner in both
the revision petition

Vs.

S.Gopalakrishnan

... Respondent in both
the revision petition

PRAYER in CRP NPD No.2998 of 2013: Civil Revision Petition filed under Article 227 of the Constitution of India against the orders dated 06.02.2013 passed in I.A.No.425 of 2011 in O.P.No.2168 of 2010 by the Principal Judge, Family Court, Chennai.

PRAYER in CRP NPD No.2999 of 2013: Civil Revision Petition filed under Article 227 of the Constitution of India against the orders dated 06.02.2013 passed in I.A.No.426 of 2011 in O.P.No.2168 of 2010 by the Principal Judge, Family Court, Chennai.

For Petitioner : Mr.C.Umashankar in both petition

For Respondent : Mr.T.K.Gopalan in both petition

COMMON ORDER

These petitions are against the fair and decreetal orders passed in I.A.No.425/2011 and 426 / 2011 in O.P.No.2168 of 2010 on the file of the Principal Judge, Family Court, Chennai.

2. The O.P.No.2168 of 2010 and O.P.No.4131 of 2010 were filed by the husband and wife respectively seeking divorce and the O.P.No.2165 of 2010 was dismissed while O.P.No.4131 of 2010 was allowed thereby annulling the marriage by a decree of nullity on the ground of impotence of husband and cruelty by husband under Sections 12(1)(ia) and 13(1)(ia) of Hindu Marriage Act respectively.

3. The I.A.No.425 of 2011 and I.A.No.426 of 2011 were filed by the husband in O.P.No.2168 of 2010 seeking directions to hand over the 7 items of gold jewells before the court belonging to him by his wife and also to permit him to hand over the jewellery and other movable assets belonging to the wife back to her. The husband, who is the respondent in these revision petitions had attached two annexures in his petition listing out the item-wise jewellery and other valuables belonging to the wife and which are in his custody. He has also listed the jewellery, which was belonging to him and in the custody of the wife. Both the annexures have

mentioned the item and also the weight in gram of the gold jewellery.

4. On the other hand, the counter filed by the wife, contained only the items and description devoid of the other details like weight in case of jewellery. The wife has also claimed huge discrepancy in the weight of gold ornaments and silver which were part of the Sreethanam by her father to her husband. The wife has also in the counter claimed the refund of the expenses incurred in the wedding, the cash dowry allegedly given for the purchase of car, honeymoon expenses etc. The trial court had found the contention of the wife to be vague as she had not adduced any evidence except countering the husband's claim. The trial court had concluded that when such a claim is made by the wife regarding the valuables including jewellery, the onus lies with the wife and she has failed to substantiate her claim satisfactorily. In such circumstances, the trial court felt that the order in both the interlocutory applications need to go with the detailed list produced by the husband. Thus, both the interlocutory applications were ordered in favour of the husband.

5. In the instant case, both the parties wanted divorce. Both of them cited the same grounds and the trial court had taken pains to find out the truth in a scientific manner. The result of the O.P.No.4131 of 2010

was the desired one for both the parties except that the truth of who was on the wrong side got exposed. But that result cannot have a bearing on these interlocutory applications, because of the nature of the interlocutory applications. Both the interlocutory applications being filed by the husband, the wife has not come forward with a new set of evidence to substantiate her claim. The demand of the wife about the cash transactions is also untenable and cannot be a part of the final order without any evidence whatsoever. The reluctance of the wife to collect her jewellery and other valuables and give back the jewellery belonging to the husband appears to be deliberate and without any logic. As claimed by the husband much time and money is spent on this formality when the main Original petition has been decreed in favour of the wife and the divorce has been granted.

6. In order to render justice to both the parties, the Principal Judge, Family Court, Chennai is advised to direct the wife to accept the jewellery and other valuables as listed out in the annexures attached to the Interlocutory applications filed by the husband and also give the jewellery belonging to the husband within a period of three months on a mutually acceptable date, failing which the wife has to forfeit her claim.

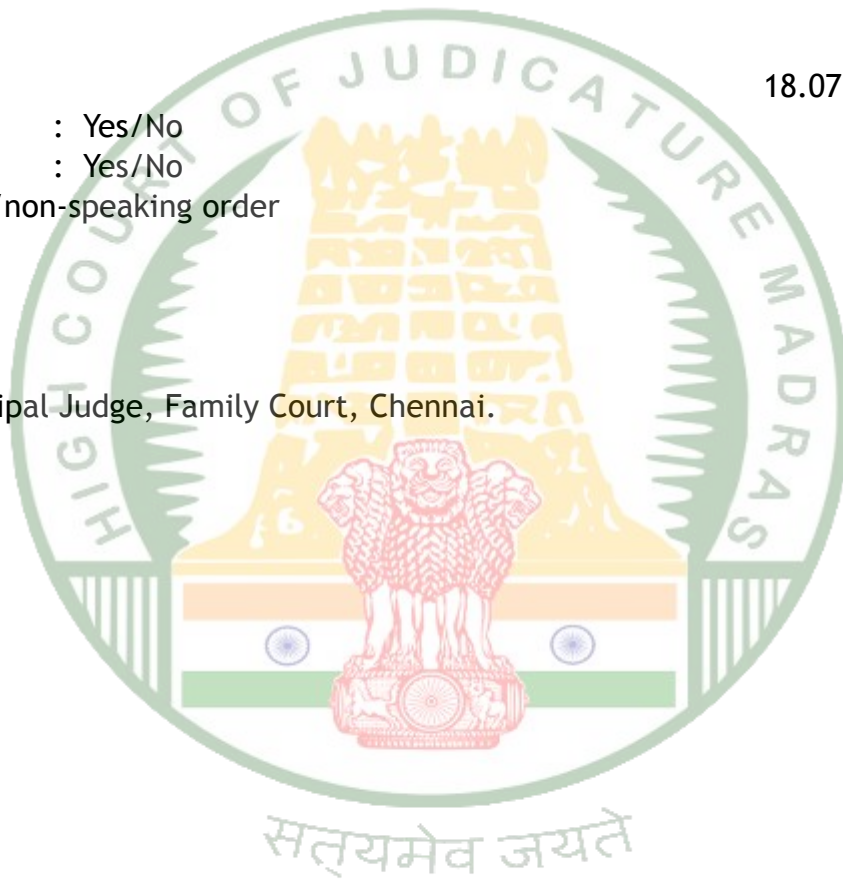
7. With the above observations, the Civil revision petitions in CRP No.2998 of 2013 and CRP No.2999 of 2013 are dismissed. No costs. The connected miscellaneous petition is closed. The order and decree passed by the trial court is upheld.

18.07.2019

Index : Yes/No
Internet : Yes/No
Speaking/non-speaking order
mst

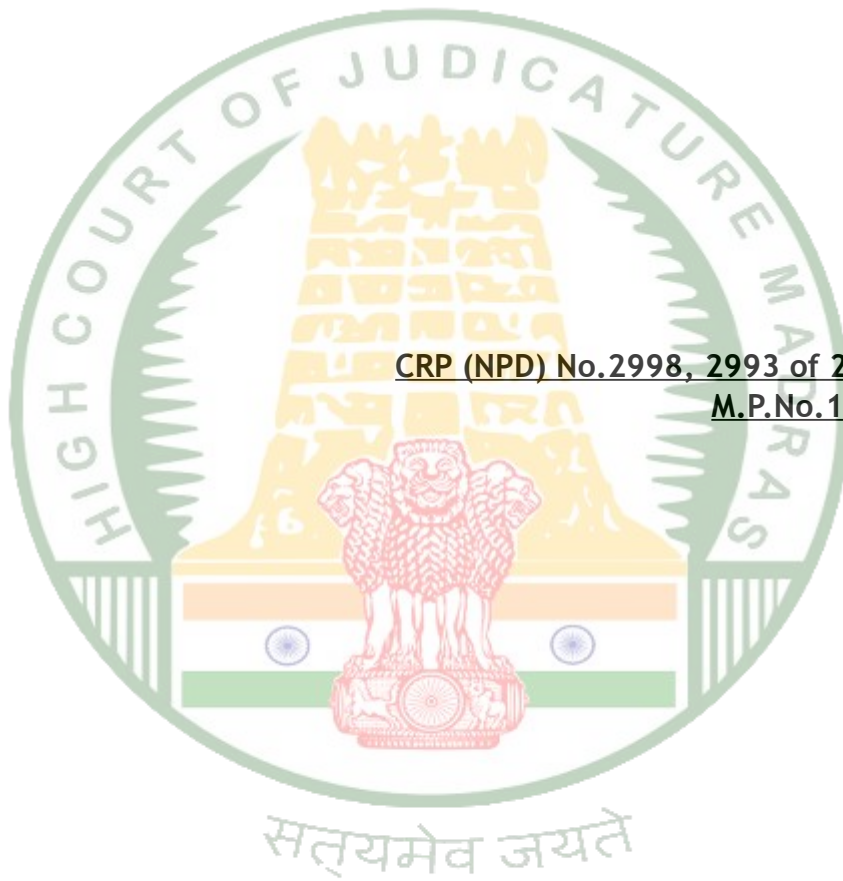
To

The Principal Judge, Family Court, Chennai.



WEB COPY

R.HEMALATHA,J.
mst



CRP (NPD) No.2998, 2993 of 2013 and
M.P.No.1 of 2013

WEB COPY 18.07.2019