

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(PD).No.856 of 2019
&
C.M.P.No.5556 of 2019

Mr.Sreyas Sripal

...Petitioner

Vs

1.Mrs.Hema

2.Dr.Kamliee

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 31.1.2019 made in I.A.No.10014 of 2018 in O.S.No.789 of 2016 on the file of the Hon'ble XII Assistant City Civil Court, Chennai.

For Petitioner : Mr.K.Suresh Babu

ORDER

The above Civil Revision Petition is filed challenging the order passed by the XII Assistant Judge, City Civil Court, Chennai in I.A.No.10014 of 2018 in O.S.No.789 of 2016 in and by which the learned Judge has allowed the application filed by the 2nd

defendant to receive the additional documents by invoking provisions under Order VIII Rule 1-A(3) of the Code of Civil Procedure.

2. In the affidavit filed in support of the petition, the petitioner has contended that these documents had been obtained by her recently and that they are the documents which are necessary for deciding the issue in the suit and for which purpose she sought for leave of the Court to file the additional documents. The said application has been filed in the month of November 2017. It is seen that 1st defendant had filed a written statement in the month of December 2015, wherein she had made reference to many of these documents or atleast the contents there of and thereafter the 2nd defendant had filed an additional written statement adopting the written statement of the 1st defendant.

3. The application to receive the documents have also been

filed. The only defense that has been put forward by the plaintiff is that the defendant has not given any details from whose custody the documents have been obtained which according to him is sine qua non for producing documents under Order VIII Rule 1-A(3). It is seen that in the instant petition filed under Order VIII Rule 1-A(3), the source of obtaining the documents has to be given only in cases where the documents are not in the possession of the petitioner.

4. In the instant case the 1st defendant claims to be the 2nd wife of the deceased father of the plaintiff and who has been living with him since 09.12.1984. All these documents are relating to the deceased father of the plaintiff and therefore it can be safely presumed that the documents have been produced from her custody. It is also seen that the evidence of D.W.1 is yet to begin and the learned XII Assistant Judge, Chennai has allowed the application subject to its proof and relevancy.

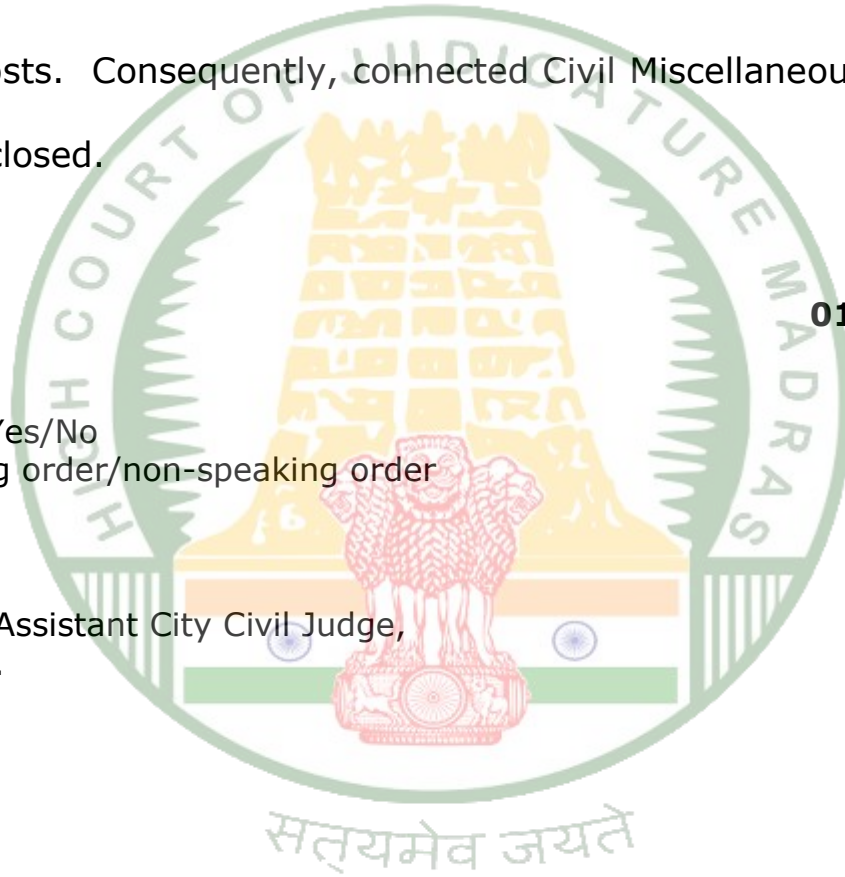
I find no infirmity in the order passed by the XII Assistant Judge, Chennai in I.A.No.10014 of 2018 in O.S.No.789 of 2016. The Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, connected Civil Miscellaneous Petition is also closed.

01.03.2019

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

To,

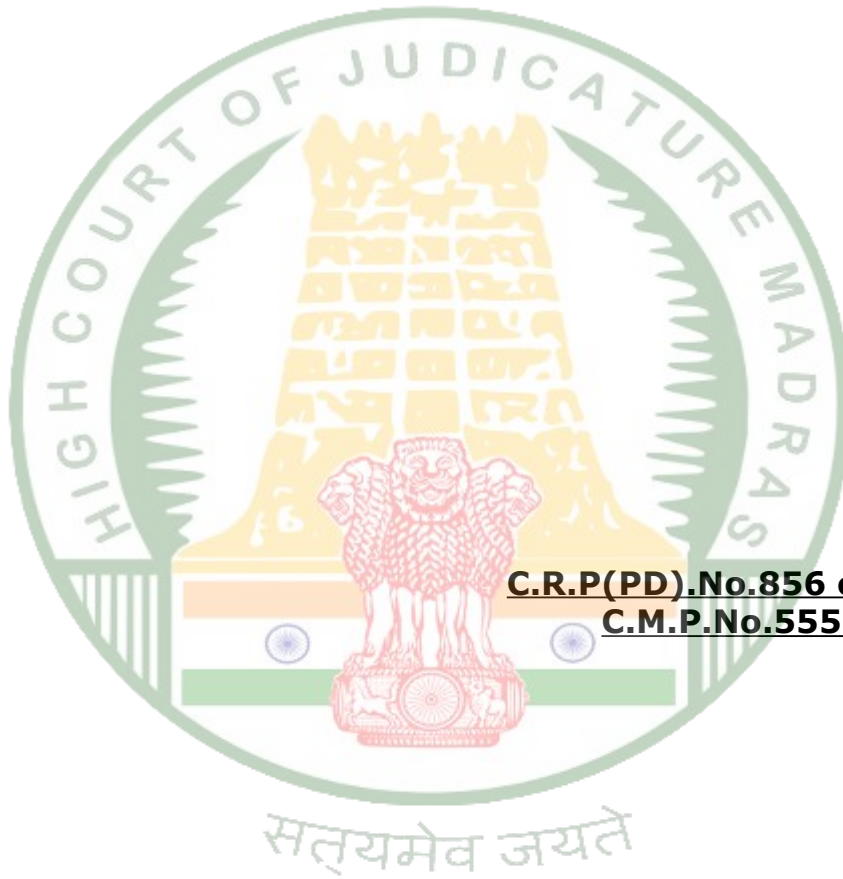
The XII Assistant City Civil Judge,
Chennai.



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P.T.ASHA, J.,

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