

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.GOVINDARAJ

C.R.P. (PD) 2989 of 2018

and

C.M.P. 17364 of 2018

1. S.H.George Martin
2. Muruna George

... Petitioners

Vs

Mrs.Alpna Dugar

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 01.09.2018 passed in I.A.No.13041 of 2017 in O.S.No.833 of 2016 on the file of III Addl. Judge, City Civil Court at Chennai.

For Petitioner : M/s.S.Suga Priya for
Mrs.Malini George
For Respondent : Mr.C.Jagadish

ORDER

This Civil Revision Petition has been filed against the order passed by the Trial Court in I.A.No.13041 of 2017 rejecting the plaintiff's proof affidavit filed before the Trial Court.

2. According to the petitioners, on behalf of the respondent wife, her husband filed the proof affidavit and projected himself as a witness. As there is no proof of authorisation given by the wife to her husband to appear as a witness has been filed, the petitioners pray for rejection of proof affidavit. In support of their contentions, the learned counsel appearing for the petitioners has relied upon the Judgment of Hon'ble Supreme Court in ***Janki Vashdeo Bhojwani and another v. Indusind Bank Ltd. & others delivered on 06.12.2004*** and the judgment reported in ***AIR 1999 SC 1441 in the case of Vidhyadhar vs. Mankrao & another.***

2. A perusal of those Judgments reveal that those cases are pertaining to evidence given by third parties other than the author of documents. In so far as the present case is concerned, the husband appeared as a witness on behalf of his wife. As per Section 120 of Indian Evidence Act, husband or wife of any party is a competent witness and no permission is required. Sec. 120 of Indian Evidence Act reads as under:

“ 120. Parties to civil suit, and their wives or husbands.

Husband or wife of person under criminal trial- In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses. In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.”

Therefore, I do not find any infirmity in the order passed by the Trial Court below. This Civil Revision Petition, on merits, has no consideration. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

21.08.2019

rpp

To

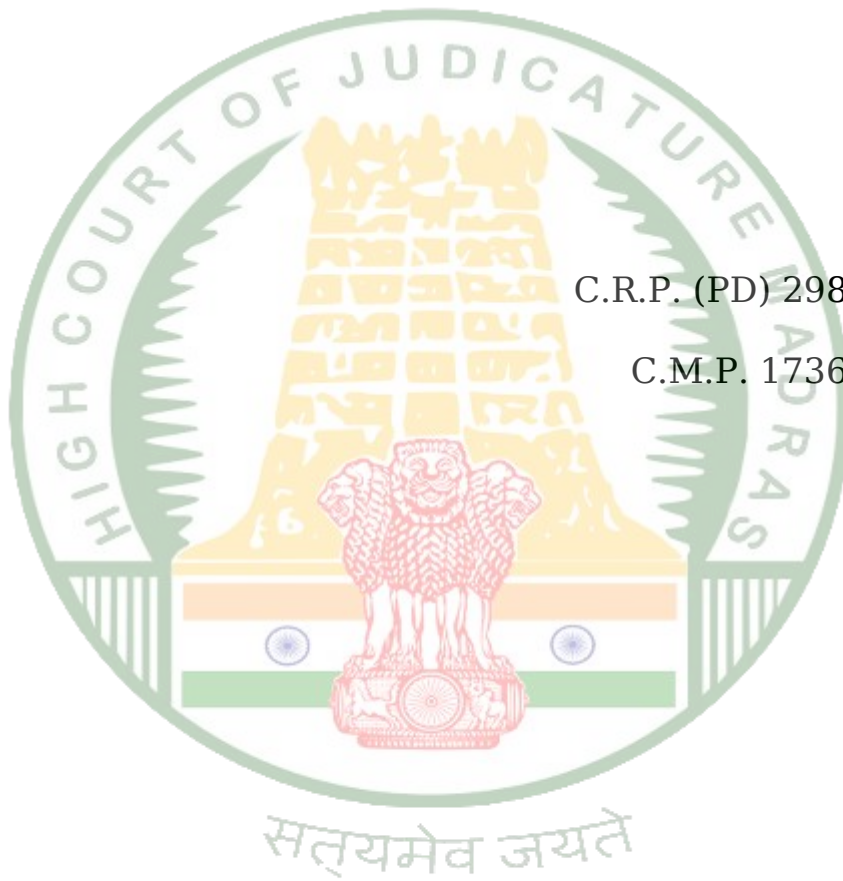
III Addl. Judge,
City Civil Court,
Chennai.

WEB COPY

C.R.P. (PD) 2989 of 2018

M.GOVINDARAJJ.

rpp



C.R.P. (PD) 2989 of 2018
and
C.M.P. 17364 of 2018

WEB COPY 21.08.2019