

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.07.2019

CORAM:

THE HON'BLE MR. JUSTICE M.GOVINDARAJC.R.P.(PD) Nos.3136 & 3137 of 2018

and

C.M.P.Nos.18027 & 18032 of 2018

R.Vinodhine

Represented by her father and

Power of Attorney Agent

Mr.T.A.Rajasekar.

... Petitioner in both WPs

Vs.

H.Umashankar @ Karthik

... Respondent in both WPs

Prayer in C.R.P.(PD) No.3136/2018 : Civil Revision Petition filed under Article 227 of the Constitution of India, to set-aside the impugned order and decree dated 09.08.2018 made in I.A.No.4024/2018 in O.P.No.2743/2016 on the file of the Learned VI Additional Family Court, Chennai dismissing the petitioner's prayer seeking to represent as the Power agent of Vinodhine, respondent in O.P.No.2743/2016 on the file of the Learned VI Additional Family Court, Chennai.

Prayer in C.R.P.(PD) No.3137/2018 : Civil Revision Petition filed under Article 227 of the Constitution of India, to set-aside the impugned order and decree dated 09.08.2018 made in I.A.No.4025/2018 in O.P.No.2743/2016 on the file of the Learned VI Additional Family Court, Chennai dismissing the petitioner's prayer seeking to set aside the exparte dated 04.04.2018 in O.P.No.2743/2016

on the file of the Learned VI Additional Family Court, Chennai.

For Petitioner : Mr.M.Vivekanandan
(in both WPs)

For Respondent : Mr.K.Raja
(in both WPs)

COMMON ORDER

Heard both sides.

2. The present petitions are filed by the father of the petitioner/wife to recognize him as her Power of Attorney and to set aside the exparte decree passed by the Family Court. The said petitions were dismissed. Aggrieved over the same, the Power of Attorney on behalf of his principal has preferred the above revision.

3. Admittedly the petitioner is pursuing her studies in Texas, U.S.A. It is practically impossible for her to appear before the Family Court for each and every hearing. Hence, she has executed a Power of Attorney in favour of her father to represent her in Family Court. On an earlier occasion, the Power of Attorney presented a petition, which was returned and he approached this Court under Article 227 of the Constitution of India. This Court directed the petitioner to represent the petition after rectifying the defects. It is well known that the

parties appear in person as per the scheme of the Act and they are not well versed with legal procedures adhered by the Courts. But the Family Court has dismissed the petition presented to recognize the Power of Attorney to represent the wife as confusing one.

4. For non-appearance of the wife, she was set exparte and the petition filed by the Power of Attorney to set aside the same was also dismissed. Aggrieved over the same, the present revisions are filed.

5. The respondent/husband has no serious objections for the wife being represented by her Power of Attorney. On the other hand, the grievance of the respondent is that his wife is delaying the matter by her non-appearance.

6. The grievance of the petitioner is to be addressed but it cannot be a ground for rejecting the petition filed to set aside the exparte decree for non-appearance and for not giving sufficient reasons. From the submissions made by both the parties, it is clear that the wife, since she is in United States of America could not appear before the Court.

this Court is of the considered opinion that order passed by the Family Court is liable to be set aside. Consequently, the Power of Attorney is recognized to represent the wife before the Family Court. At the time of trial, wife shall try to be present on the dates fixed for examination of witnesses. If it is not feasible, shall co-operate for completion of trial through video-conferencing. A direction is given to the Family Court to fix a convenient date for both the parties for conducting the chief and cross examination of the wife either in person or through video conference. The Registry is directed to delete the name of Mr.P.Udhayashankar and issue the order copy in the name of Mr.M.Vivekanandan, learned counsel appearing for the petitioner.

8. With the above directions, the present Civil Revision Petitions stand disposed of, with a further direction to the Family Court to dispose of the Original Petition, as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed. No costs.

22.07.2019

Speaking Order/Non Speaking Order
Index : Yes/No

To

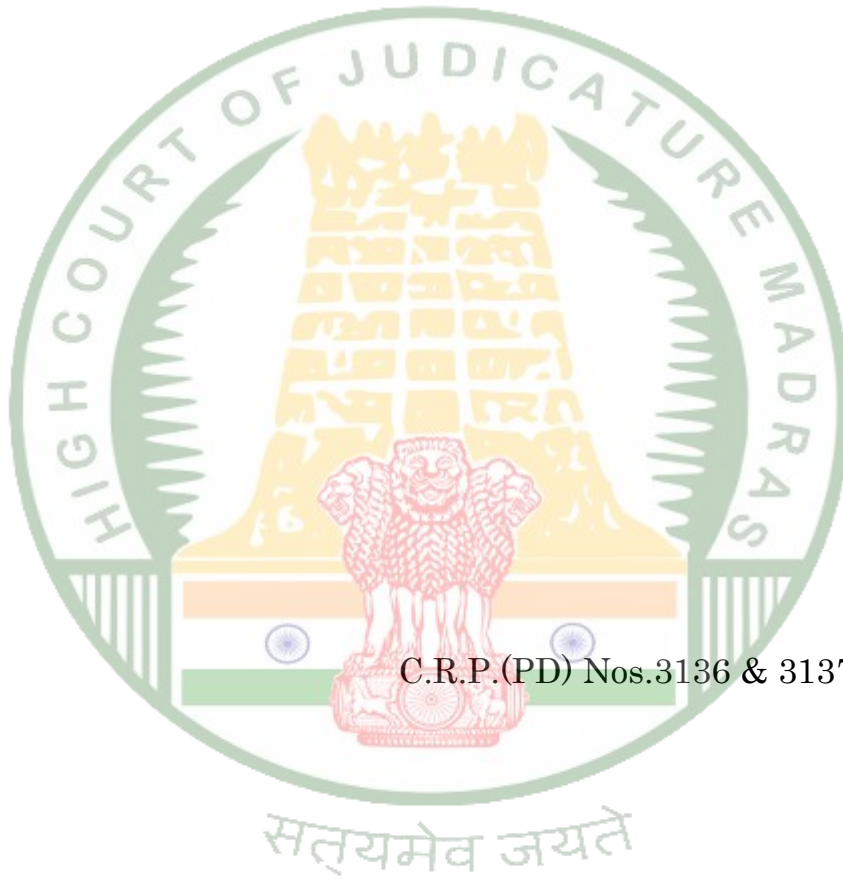
Learned VI Additional Family Court,
Chennai.



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M. GOVINDARAJ.,J.

sni



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