

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.(PD) No.818 of 2020

and

C.M.P.No.4357 of 2020

Sowmya

...Petitioner

..Vs..

Madhan

...Respondent

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the docket order dated 29.01.2020 for marking the documents in O.P.No.4224 of 2018 on the file of the III Additional Family Court, Chennai.

For Petitioner : Mr.K.Sudhakar

For Respondent :Mr.R.Nandha Kumar

WEB COPY

ORDER

The respondent/husband has filed O.P.No.372 of 2018, before the Family Court, Coimbatore for divorce on the ground of cruelty and subsequently, it was transferred to the Family Court, Chennai and re-numbered as O.P.No.4224 of 2019. In the meanwhile, the wife has filed M.C.No.491 of 2019, claiming maintenance.

2. The husband is working in South Africa and for the purpose of this case, he has come down to Chennai and he has also filed a memo before the Family Court, Chennai, stating that for conducting trial of the case, he has come to India on leave for a month and evidence in respect of the matter may be recorded, within a stipulated time. The said memo was also taken on file and he has been examined as P.W.1 and he had marked Ex.P1 to P15 and the O.P. was posted for cross examination at 3.00 p.m. on 29.01.2020. At this juncture, the respondent/wife, before the trial Court has objected to the same, stating that only six documents are filed along with the main petition and without filing any petition to receive the additional documents, these documents cannot be marked.

3. The Family Court has observed that all the documents are admitted documents and hence, the wife is indulging in protracting the proceedings and hence, it has made certain objections for protracting the litigation and rejected the objection of the wife and posted the case for further cross examination. Aggrieved by the marking of the documents, this Civil Revision Petition has been filed by the husband.

4. After hearing both the parties and taking note of the impugned order dated 29.01.2020, it is seen that the husband has entered the witness box and examined himself as R.W.1 and Ex.P1 to P15 were marked for the cross examination. It was directed to be passed over at 3.00 p.m. on 29.01.2020. At that time, the respondent objected to the marking of the documents on the ground that only these documents have been filed along with O.P and now the additional documents have been filed. Further, except, Ex.P9, P14, P15, other documents are the xerox copies and hence, the C.R.P has been filed.

5. Heard the learned counsel appearing for the respondent-husband.

6. Since these documents are not the petition documents, they have to follow the procedures as contemplated under Order 7 Rule 13 C.P.C. The learned counsel for the respondent-husband has drawn my attention to the provisions of the Family Court Act under Sections 10(2), 10(3), 14 and 20.

7. Admittedly, some of the documents filed are not petition documents and hence, application under Order 7 Rule 13 CPC petition ought to have been filed. Hence, taking the evidence on record, the impugned order dated 29.01.2020 is scrapped. The respondent/husband is at liberty to file petition under Order 7 Rule 13 CPC to receive the additional documents mentioned under the petition.

8. With such liberty, the Civil Revision Petition is allowed with limited extent indicated above. The III Additional Family Court, Chennai, is directed to dispose of the said O.P.No.4224 of 2018 within a period of four months from the date of receipt of a copy of this order, since the parties are non-resident Indians (NRIs). No costs. Consequently, connected C.M.P is closed.

01.12.2020

nvi

Speaking Order:Yes/No

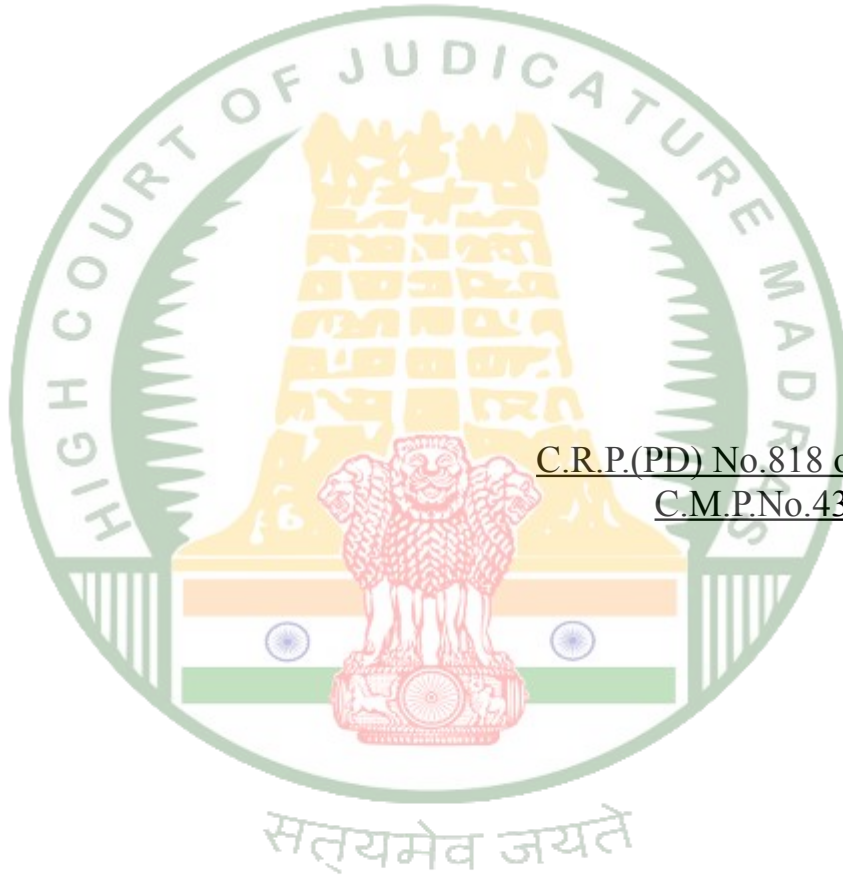
To
The III Additional Family Court, Chennai.



WEB COPY

RMT.TEEKAA RAMAN,J.,

nvi



C.R.P.(PD) No.818 of 2020 and
C.M.P.No.4357 of 2020

WEB COPY

01.12.2020