

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2020

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(PD).Nos.1927 & 1928 of 2013

and

M.P.Nos.1 & 1 of 2013

R.Srinivas

... Petitioner
in both CRPs

Versus

M.Vanitha

... Respondent
in both CRPs

COMMON PRAYER: This Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the order and decree passed in I.A.Nos. 375 & 376 of 2012 in O.P.No.1001 of 2006, dated 09.02.2013, on the file of the II Additional Family Court at Chennai.

For Petitioner
in both CRPs : Mr.J.Brezhnev

For Respondent
in both CRPs : Mr.S.Balasubramaniam

COMMON ORDER

CRP.No.1927 of 2013 has been filed against the order passed in I.A.No.375 of 2012 in O.P.No.1001 of 2006, by the II Additional Family Court at Chennai, dated 09.02.2013, wherein, the revision petitioner was directed to return the golden jewels said to have been belonged to the respondent/wife.

2 CRP.No.1928 of 2013 has been filed against the order passed in I.A.No.376 of 2012 in O.P.No.1001 of 2006, by the learned II Additional Principal Judge, dated 09.02.2013, wherein, revision petitioner was directed to pay a sum of Rs.10,000/- per year as educational expenses for the minor child viz., Roopika.

3 The revision petitioner is the husband in both the cases and wife is the respondent in both the cases.

4 The revision petitioner/husband has filed a petition in O.P.No.1001 of 2006 before the II Additional Family Court, Chennai, for divorce on the ground of cruelty. When O.P. was pending for arguments, it appears that the respondent herein/wife has filed applications in

(i) I.A.No.374 of 2012 for enhancement of the interim maintenance from Rs.1,600/- to Rs.10,000/-;

(ii) I.A.No.375 of 2012 for return of articles and gold jewels;
and

(iii) I.A.No.376 of 2012, to direct the revision petitioner/husband to pay a sum of Rs.15,000/- towards educational expenses for the minor child viz., Roopika.

In all I.As no oral or documentary evidence has been recorded and

the three I.As, were allowed by a common order dated 09.02.2013. As against the order in I.A.No.374 of 2012, wherein, maintenance has been enhanced. Thereafter, CMA has been filed and the same is pending before this Court. As against the orders passed in I.A.Nos.375 & 376 of 2012, these two Civil Revision Petitions have been filed.

5 Heard both sides and perused the materials placed
on record.

6 After hearing the learned counsel appearing for the revision petitioner, this Court awards a sum of Rs.10,000/- to the minor girl Roopika for her educational expenses. This Court is of the considered view that which is a just and reasonable and the petitioner being the father, is liable to pay the said amount. Accordingly, the amount awarded by the Family Court cannot be termed as excessive. Accordingly, CRP.No.1928 of 2013 filed against the I.A.No.376 of 2012 is dismissed.

7 In the CRP.No.1927 of 2013 (I.A.No.375 of 2012), this Court finds that though an averment has been made in the affidavit regarding the presence of gold jewels in the house of the

revision petitioner/husband, no oral evidence has been adduced or documentary evidence has been marked. Especially, in the light of the counter statement filed by the revision petitioner/husband, no jewels have been left beyond by the wife as the wife left the matrimonial home on her own accord. At the time of leaving matrimonial Home, she has taken everything. When there is a specific denial in the counter, the Family Court ought to have called upon the parties to adduce evidence before giving a direction to the respondent/husband to return the jewels without the presence of the jewels at the hands of the husband.

8 Considering the facts and circumstances of the case, the order made in I.A.No.375 of 2013, dated 09.02.2012 is set aside and matter is remitted back to the Family Court and the Family Court shall take the I.A.No.375 of 2013 along with O.P.No.1001 of 2006 and give a direction to the respective parties to adduce evidence to that aspect and while pronouncing the order in the main O.P.No.1001 of 2006, the Family Court shall also consider the prayer in I.A.No.375 of 2012 and pass the composite order without any further delay as the O.P is of the year 2006, pending for a long time. With the above observations CRP.No. 1927 of 2013 is partly allowed.

9 In the result

(i) CRP.No.1927 of 2013 is partly allowed and the order passed by the II Additional Family Court at Chennai in I.A.No.375 of 2012 in O.P.No.1001 of 2006, dated 09.02.2013, is modified to the limited extent as stated supra.

(ii) CRP.No.1928 of 2013 is dismissed and the order passed by the II Additional Family Court at Chennai in I.A.No.375 of 2012 in O.P.No.1001 of 2006, dated 09.02.2013, is confirmed.

(iii) No costs. Consequently, connected Miscellaneous Petitions are closed.

07.01.2020

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Speaking Order:Yes/No

To

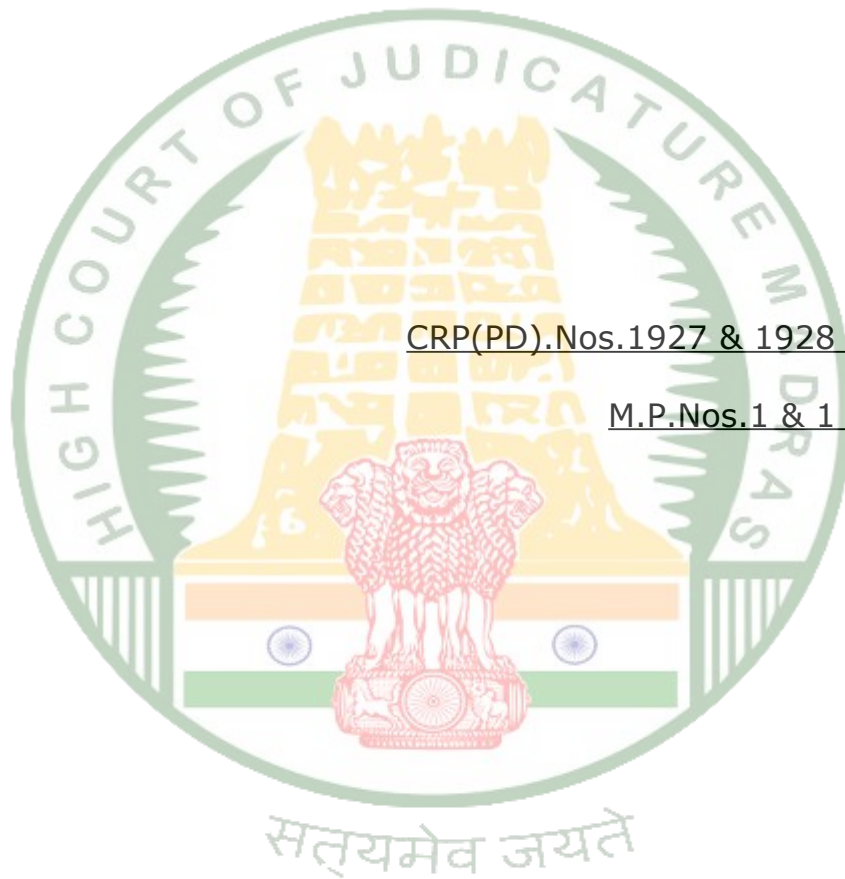
The II Additional Family Court, Chennai.

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RMT.TEEKAA RAMAN., J.

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