

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(PD).No.2224 of 2020

and

C.M.P.No.13988 of 2020

V.Vishnupriyan

... Petitioner

Versus

K.Revathy

... Respondent

PRAYER:- Civil Revision Petition filed under Article 227 of the Constituion of India, praying to set aside the fair order and decreetal order dated 03.01.2020 passed by the VII Additional Family Court Judge at Chennai in I.A.No.2 of 2019 in H.M.O.P.No.5049 of 2018.

For Petitioner : Mr.R.Ganesh Kanna

ORDER

The husband is the revision petitioner herein.

2. The husband has filed H.M.O.P.No.5049 of 2018 for dissolution of marriage on the ground of cruelty and desertion. An ex-parte decree came to be passed on 09.07.2019. The wife has filed the present I.A for setting aside the ex-parte decree passed on 09.07.2019 on the ground that there is a improper service of notice and she is residing at Door No.66, Thiruvalluvar Street, Gandhi Nagar,

Perumattunallur, Chennai. In the I.A., the petitioner/wife examined herself as P.W.1 and Exhibit P1-Copy of the Rental Agreement is filed. The Husband was examined as R.W.1 and Exhibits R1 to R5 were filed. The learned Family Court Judge has allowed the application. Aggrieved against the said order, the husband has filed this revision petition.

3. The learned counsel for the revision petitioner has submitted that the sworn statement affidavit is bereft of details and falsehood and it is a specific case of the petitioner/husband that at the relevant point of time namely 07.07.2018, the wife was leaving with him and hence, the contention relating to that point of time cannot be gone into. He also stated that the W2, All Women Police Station had enquired on 11.12.2008 and at that time it was informed to the police about the institution of the proceedings and her counsel had the knowledge about the pendency of the case.

4. The main grievance of the wife is that no proper Court notice had been served upon her. Hence, she could not be present and ex-parte order was passed on 09.07.2019. The I.A. was filed on 25.07.2019. Exhibit P1 Rental Agreement is filed by the wife before the Family Court to show that she was residing in the address mentioned in the petition. In the interest of justice, to offer an opportunity for the wife to contest the dissolution of marriage proceedings, the learned Family Court Judge has rightly allowed the application. Hence, I do not

find any reasons to interfere with the order. The Family Court is directed to dispose of the H.M.O.P within a period of six months from the date of receipt of a copy of this order.

5. It is hereby made clear that the observation made by the learned trial Judge at Paragraph Nos.6,7,8&9 in the impugned order will not stand in the way of the revision petitioner/husband during the cross examination so as to elicit certain facts in the main trial

6. The learned VIII Additional Principal Judge is hereby directed to dispose of the H.M.O.P. without prejudice to the observation made by in the impugned order at Paras 6,7,8&9.

7. With the above directions, this C.R.P is disposed of. No costs. Consequently, connected C.M.P is closed.

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Index:Yes/No

To

The VII Additional Family Court Judge at Chennai

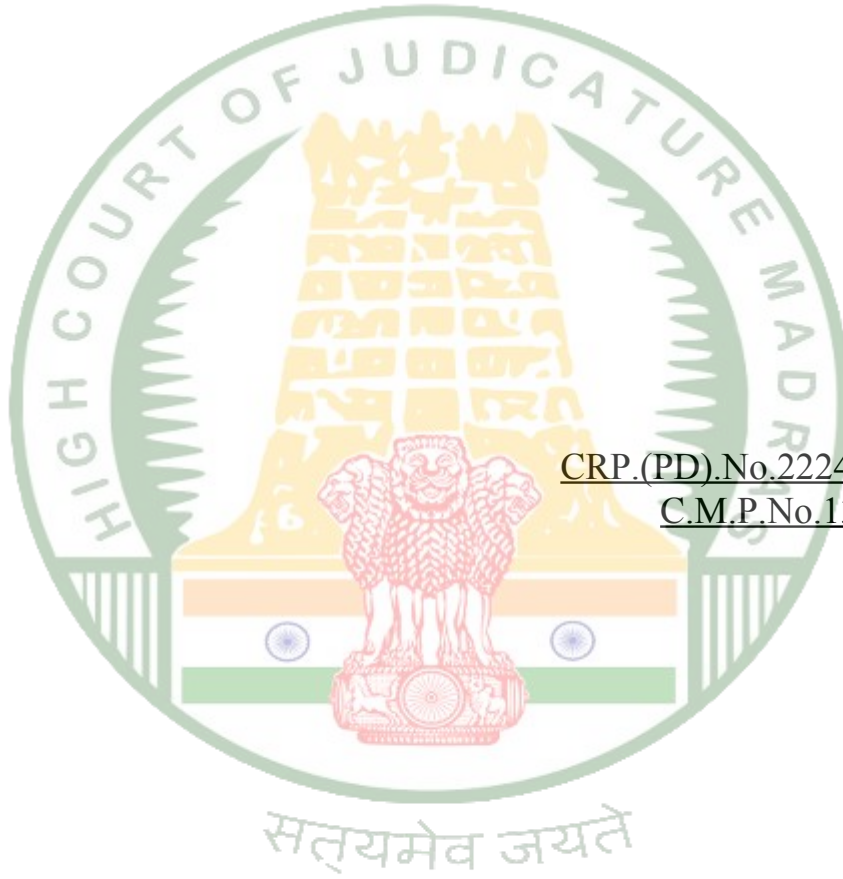
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RMT.TEEKAA RAMAN,J.,

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