

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

CMA.No.4808 of 2019

T.Praveena Thiyagarajan Appellant/Respondent

Vs

R.H.Deva Narayanan Respondent/Petitioner

Civil Miscellaneous Appeal preferred under section 19 of Family Courts Act to set aside the order made in HMOP.No.1868 of 2018 dated 04.11.2019 on the file of the IV Additional Family Court, Chennai.

For Appellant ... Mr.R.Nagasundaram
for M/s.V.Anusha

For Respondent .. No appearance

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This Civil Miscellaneous Appeal has been directed against the order dated 04.11.2019, made in H.M.O.P.No.1868 of 2018, by the IV Additional Family Court, Chennai.

2. Heard the learned counsel appearing for the appellant and despite service of notice, none appeared on behalf of the respondent.

3. On an earlier occasion, the appellant, who is living and residing abroad, filed a petition in HMOP.No.1502 of 2018 for divorce and for the same relief, respondent also filed HMOP.No.1868 of 2018.

4. When the matter is taken up for hearing, the learned counsel appearing for the appellant filed a memo on behalf of the appellant. The maternal aunt of the appellant was present before this Court along with the memo and the petition seeking permission to represent the appellant, who is residing abroad, in terms of the power of attorney executed by her. Incidentally, the respondent remained absent. But the Family Court dismissed the petition filed by the respondent/husband on the ground that both the parties are absent.

5. The learned counsel for the appellant submitted that only because of the petition filed by the respondent in HMOP No.1868 of 2018 she has not pressed her petition. Now it is the case of both the parties that they are inclined to go for divorce as the respondent is also willing to give consent for divorce as several allegations are made. Therefore, it is a fit case where the petition filed by the respondent in HMOP.No.1868 of 2018 has to be restored.

6. This Court finds some force in the submission made. HMOP.No.1868 of 2018 has been filed by the respondent and not filed by the appellant. It is the appellant who wants this petition to be restored for the purpose of getting consent for divorce sought for by the respondent. Therefore, looking at this perspective, the petition filed by the respondent/husband is to be restored, particularly, when the appellant was represented by the maternal aunt along with the petition enclosing the power of attorney executed by her. In such view of the matter, the order passed by the IV Additional Family Court is set aside and HMOP.No.1868 of 2018 stands restored. The appellant is permitted to represent her case through the power of attorney, namely, the maternal aunt. In fine, this Civil Miscellaneous Appeal is allowed without costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

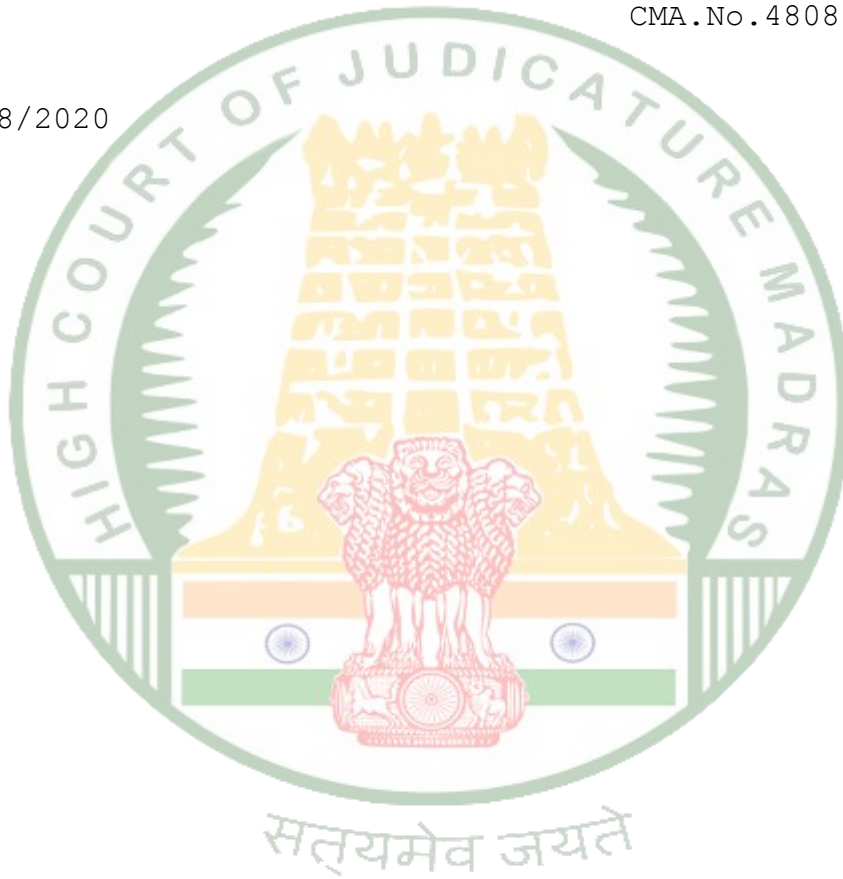
To

The IV Additional Judge, Family Court,
Chennai.

+1CC TO MR.K.THANIGAIVEL, ADVOCATE
(SR NO.13988)

CMA.No.4808 of 2019

SSD(CO)
RV 26/08/2020



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