

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 11.11.2020

Pronounced on : 16.12.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(PD).Nos. 4184 and 3757 of 2019

and

CMP.Nos. 24704 and 27215 of 2019

R. Sujatha

... Petitioner
(in both CRPs)

Versus

Arasu Srivatsav

... Respondents
(in both CRPs)

Prayer in CRP.No.4184 of 2019:

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 27.09.2019 in I.A.No.01 of 2019 in H.M.O.P.No.1296 of 2017 on the file the V Additional Family Judge, Chennai.

Prayer in CRP.No.3757 of 2019:

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 27.09.2019 in I.A.No.03 of 2019 in H.M.O.P.No.1788 of 2015 on the file the V Additional Family Judge, Chennai.

For petitioner : Mrs. T.Shyamala
(in both CRPs)

For Respondent : Mr. S.Selvathirumurugan
(in both CRPs)

COMMON ORDER

The revision petitioner is the same in both cases. There are two matrimonial proceedings before the learned V Additional Family Court Judge, Chennai, for the sake of convenience the parties are referred to husband and wife.

2. Initially, the wife has filed H.M.O.P. No.1788 of 2015 before the V Additional Family Court, Chennai for divorce on the ground of desertion and cruelty. Thereafter, the husband filed H.M.O.P. No.1296 of 2017 for the relief of restitution of conjugal rights, both the cases are taken up for hearing. At the time of hearing, the wife has given Power of Attorney to her father, to conduct the case on her behalf. Subsequently, when the trial has commenced, the wife came down to India and filed her proof affidavit and the husband's counsel could not complete the cross examination. Since the wife could not get leave, during her visit to India she filed interim applications in I.A. No.3 of

2019 in H.M.O.P. No.1788 of 2015, I.A. No.1 of 2019 in H.M.O.P. No.1296 of 2017 for cross examination of the wife through Video conferencing, wherein, the husband filed counter affidavit. It is not in dispute she is ready to give her evidence and she may be permitted through video conferencing her evidence as and when required at the cost of the wife.

2.(a) Memo filed by the husband stating that video conferencing cannot be taken for the purpose of recording evidence, it is in the matrimonial proceedings. After hearing the matter and the counter memo and the rival submissions, it was directed by the Family Court to file appropriate application.

2.(b) Accordingly, the I.A. No.3 of 2019 in O.P. No.1788 of 2015 and I.A. No.1 of 2019 and in H.M.O.P. No.1296 of 2017. The aforesaid application was rejected by the V Additional Family Court on the ground that the wife has not submitted any proof to show that she is in employment in USA and that completion of cross examination on a single day is not possible in family matter.

2.(c) Aggrieved against the said order, the present Civil Revision Petition has been filed. Initially, the application filed before this Court during the month of March, stating that the petitioner/wife moved to give evidence come to India due to Pandemic situation, the same could not be complied with.

3. The learned counsel for the petitioner filed an additional typed set of papers on 20.11.2020, which would show that the wife has obtained Visa upto 16.10.2021 and the letter from the Cognizant Technology Solution viz., U.S. Corporation that wife has been employed as in a full time employee with their Company and she is currently designated as Manager-Service Delivery and her residential address as per record is 5338 Timberview Way, Marlborough - 01752-2576, Massachusetts, United States.

4. The learned counsel for the respondent would contend that the matter is on enquiry stage. Taking note of the fact that now the petitioner/wife has filed typed set showing her Visa and letter from her employer. Those documents ought to have been filed before the Family Court, Chennai.

5. In view of the circumstances and also the matter of travelling due to Pandemic situation, I find that the order passed by the trial court is for reconsideration. Accordingly, both the orders passed by the trial court in the respective I.A.No.3 of 2019 in H.M.O.P. No.1788 of 2015, I.A.No.1 of 2019 in H.M.O.P.No.1296 of 2017 are set aside and the matter is remanded back to the V Additional Family Court, Chennai. The petitioner/wife is permitted to file necessary document viz., Visa and an employment letter given by the Cognizant before the Family Court and the Family Court shall consider the same, after hearing further arguments, if any advanced on behalf of the parties and to pass fresh orders in the light of the circular given by the Hon'ble Court in respect of Video Conferencing for recording evidence by the parties in the Family Court.

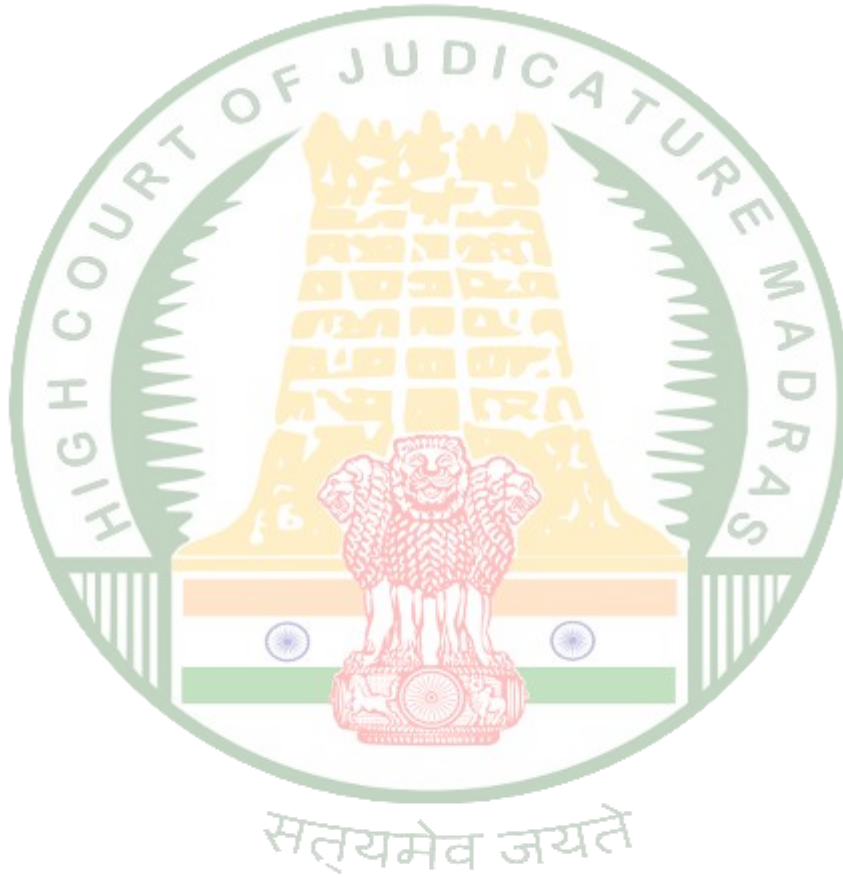
6. With these observations, the Civil Revision Petitions are allowed to a limited extend indicated above.

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Index : yes/no
Internet : yes/no
Speaking/Non-Speaking order

msm

To
The V Additional Family Judge, Chennai.



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CRP.(PD).No. 4184 & 3757 of 2019

RMT.TEEKAA RAMAN,J.,

msm



**Pre-delivery order in
CRP.(PD).Nos. 4184 and 3757 of 2019
and
CMP.Nos. 24704 and 27215 of 2019**

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