

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

**C.R.P.(PD) No.635 of 2019
and C.M.P.No.4212 of 2019**

G.Nandakumar ...Petitioner

Vs.

N.Jayalakshmi ...Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 10.10.2018 made in I.A.No. 3909 of 2018 in O.P No. 2009 of 2016 on the file of the V Additional Family Court at Chennai.

For Petitioner : Mr. M/S Nathan and Associates

For Respondent : Mr. V.V. Sairam

ORDER

This Civil Revision Petition is filed to set aside the order dated 10.10.2018 made in I.A.No. 3909 of 2018 in O.P No. 2009 of 2016 on the file of the V Additional Family Court at Chennai.

2. The O.P.No 2009/2016 was filed by petitioner against the respondent under Section 13 (1) (i) and 13(1)(i-a) of the Hindu Marriage

Act seeking the relief of adverse.

3.I.A.No. 3909/2018 was filed under Section 151 of CPC read with Section 14 of Family Courts Act, 1984 and under Sections 65A and 65B of the Indian Evidence Act, seeking permission to introduce an additional evidence in the form of electronic record, relating to the acknowledgement of sridhana articles by the respondent.

4.The case of the petitioner is that the respondent got back the sridhana articles on 16.04.2016 and the same was acknowledged by her. There are 3 videos to prove the receipt of the sridhana articles. Therefore, these videos have to be received as electronic evidence on the side of the petitioner.

5.This petition was contested by the respondent. The Learned V Additional Family Judge, Chennai, dismissed the petition mainly on the ground that the petitioner has not produced the certificate along with the CD as mandated under Section 65-B of the Indian Evidence Act. The present Civil Revision Petition is filed against the dismissal order 10.10.2018 made in I.A.No. 3909 of 2018 in O.P No. 2009 of 2016.

6.The learned counsel for the petitioner submitted that the videos sought to be produced are relevant and important piece of evidence to prove the case of the petitioner with regard to the return of sridhana articles. The petitioner is now prepared to produce the necessary certificate under Section 65-B of the Indian Evidence Act and prays to allow this Civil Revision Petition.

7.The learned counsel for the respondent opposed this petition on the ground that the certificate should have been filed, at the time of filing the petition in I.A.No.3909 of 2018. Hence, now, the petitioner cannot seek to file a certificate under section 65-B of the Indian Evidence Act. Therefore, he prayed for dismissal of this petition.

8.The law with regard to the reception of electronic evidence is settled in the case of Arjun Panditrao Khotkar Vs. Kailash Kishanrao Gorantyal by the Hon'ble Supreme Court. Further, it is now held that the Section 65-B of the Indian Evidence Act, is necessary for the reception of electronic evidence. However this certificate can be filed, even at the time of marking the document. It is not necessary that it should be produced along with the petition.

9.Now, the learned counsel for the petitioner is prepared to produce the certificate under section 65-B of Indian Evidence Act, along with CD, at the time of marking the document. It is open to the respondent to challenge the contents of the CD, when her turn comes. Therefore, the order of the learned V Additional Judge, Family Court, Chennai, made in I.A.No.3909 of 2018 is set aside and this petition is allowed as indicated above. CD to be received along with the certificate under Section 65-B of the Indian Evidence Act.

10.Accordingly, this Civil Revision Petition is Disposed of. No costs. Consequently connected miscellaneous petition is closed.

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24.08.2021

Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No

To

1.The V Additional Family Court, Chennai.

2.The Section Officer

VR Section

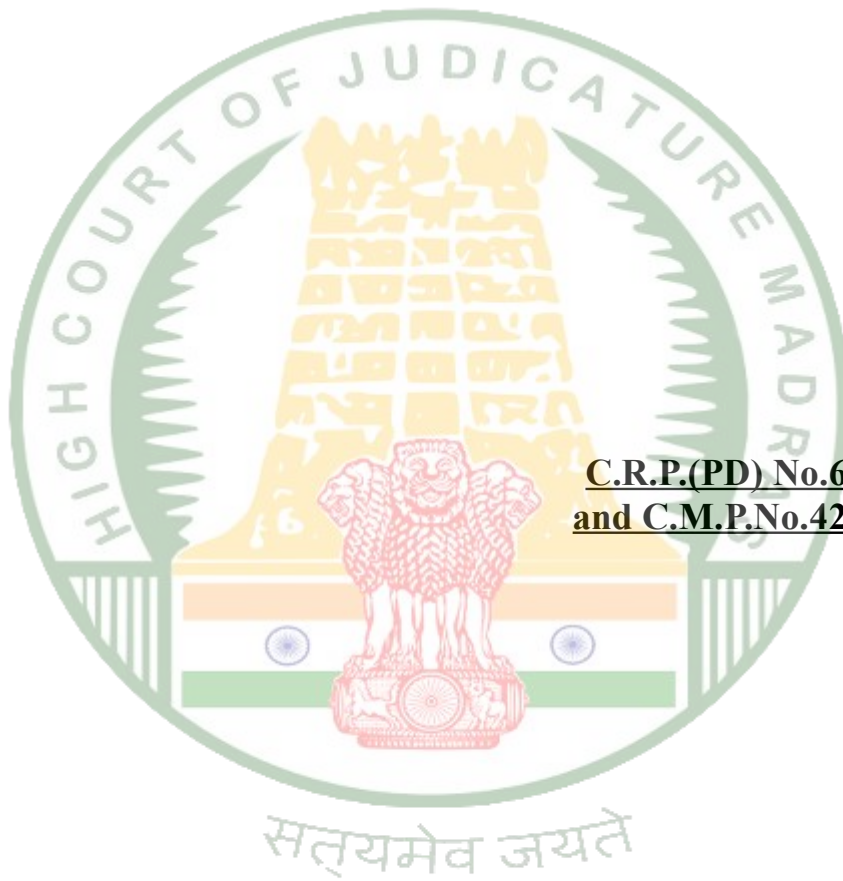
High Court of Madras.



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G.CHANDRASEKHARAN.J,

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