

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2015

CORAM

THE HON'BLE MR. JUSTICE S.MANIKUMAR
and
THE HON'BLE MR. JUSTICE M.VENUGOPAL

C.M.A. No.1958 of 2015 and
M.P.No.1 of 2015

Thandapani Appellant/Respondent
Vs.

Sathya Respondent/Petitioners

Appeal against the Fair and Decretal Order in I.A.84/2015 in HMOP.No.37 of 2015 dated 6.3.2015 on the file of the Family Court, Villupuram.

For Appellant ... Mr.N.Suresh

JUDGMENT

(Judgement of the Court was delivered by S.MANIKUMAR, J.)

Being aggrieved by the order made in I.A.No.84 of 2015 in HMOP.No.37 of 2015, on the file of the learned Judge, Family Court, Villupuram, granting maintenance to the respondent-wife, appellant-husband has filed the present appeal, challenging the same.

2.Brief facts are that the marriage between the appellant and respondent was solemnized on 27.8.1993 and out of the wedlock, two daughters were born to them. Thereafter, due to some misunderstanding between them, the appellant herein started living separately and filed HMOP.No.37 of 2015 seeking divorce. As the respondent found it difficult to live without any financial assistance and educate her children, she has filed I.A.No.84 of 2015 seeking maintenance of Rs.5,000/- p.m. to her, and Rs.2,000/- p.m. each to her minor daughters.

3.The said claim was opposed by the appellant husband, stating that the respondent wife cannot legally claim maintenance, as she was living in adultery. Contention has been made that he is ready to take care of his children. Husband has denied the contention of source of income averred by the respondent wife. Without prejudice to above, he has pleaded that the amount claimed is high.

4.To sustain the claim, the respondent herein/wife examined herself as P.W.1 and the appellant-husband examined himself as RW.1. No oral or documentary evidence has been adduced on either side.

5.Upon consideration of the oral evidence, the learned Family Court Judge, Villupuram, while allowing the interlocutory application, directed the appellant-husband to pay a sum of Rs.3,000/- p.m. to the wife towards interim maintenance from the date of the petition, till the disposal of HMOP.No.37 of 2015 and Rs.3000/- towards her litigation expenses. Challenging the quantum of maintenance awarded by the Family Court, the present appeal has been filed.

6. Material on record reveals that though the husband has alleged that the respondent-wife was living in adultery, there is no evidence to prove the same. Likewise, though it was contended by the husband that he was working in his uncle's Asari Shop and earned only a sum of Rs.2,000/- or Rs.3,000/- p.m., no oral or documentary evidence has been produced to prove the same.

7. Material on record further discloses that the marriage between the appellant and the respondent is still in subsistence and that the daughters are with the wife. Therefore, though it was contended that the wife is earning Rs.7,500/- p.m., the court below has observed that it is not sufficient for their livelihood. Considering the above aspect and to provide other basic amenities, the Family Court has awarded interim maintenance to the wife at Rs.3,000/- per month and Rs.3,000/- towards her litigation expenses. The claim for maintaining the children has been rejected. Going through the impugned order, we find no infirmity in the said order.

8. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

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To

1.The Family Court Judge,
Villupuram.

+1 cc to Mr.N.Suresh, Advocate, sr.47459

C.M.A.No.1958 of 2015

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