

In the High Court of Judicature at Madras

Dated : 22.6.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

Civil Miscellaneous Appeal No.2674 of 2014
and M.P.Nos.1 of 2014 and 1 of 2015

M.Kathiravan

...Appellant

Vs

1.K.M.Sangeetha

2.Minor Lohith

minor rep.by mother & natural
guardian R1 - K.M.Sangeetha

...Respondents

APPEAL under Section 19 of the Family Courts Act against the grant of interim maintenance vide order dated 19.3.2014 in I.A.No.1178 of 2013 in O.P.No.1563 of 2011 on the file of the Third Additional Family Court, Chennai.

For Appellant : Mr.J.Srinivasa Mohan
For Respondent-1 : Ms.N.Alamelu Mangai

JUDGMENT WAS DELIVERED BY V.RAMASUBRAMANIAN,J

This appeal arises out of an order passed by the Third Additional Family Court, Chennai directing the appellant to pay interim alimony in a sum of Rs.10,000/- per month to the first respondent/wife and a sum of Rs.5,000/- per month towards alimony to the minor son, who is the second respondent.

2. Heard Mr.J.Srinivasa Mohan, learned counsel for the appellant and

Ms.N.Alamelu Mangai, learned counsel appearing for the first respondent.

3. The appellant filed a petition in O.P.No.1563 of 2011 on the file of the Third Additional Family Court, Chennai seeking restitution of conjugal rights. In the said petition, the evidence on the side of the appellant was already over. The first respondent also examined herself as R.W.1. When the case was posted for further evidence on the side of the respondents, the Family Court took up I.A.No.1178 of 2013 for interim maintenance and passed an order fixing the interim maintenance at Rs.10,000/- per month for the wife and Rs.5,000/- per month for the minor child. The Family Court also awarded a sum of Rs.10,000/- towards litigation expenses. As against the said order, the husband is before us.

4. It appears that the pursuant to the said order, the appellant has already deposited a total amount of Rs.4 lakhs before the Family Court. Out of the said amount, the first respondent already withdrew a sum of Rs.1.5 lakhs. The balance amount is now lying with the Family Court.

5. The respondents themselves have earlier come to this Court seeking a direction to the Family Court to dispose of the main case. In the revision petition so filed by the respondents, a direction has already been issued to the Family Court to dispose of the main petition within three months. Therefore, we are of the considered view that by imposing some conditions to ensure that the order of the Family Court is not exploited to prolong the

trial of the main petition, this appeal could be disposed of.

6. Accordingly, this appeal is disposed of to the following effect :

(i) The order of the Family Court dated 19.3.2014 is confirmed.

(ii) The first respondent, who has already filed a list of three witnesses on her side, shall produce her first witness along with a proof affidavit in lieu of chief examination so as to enable the appellant to cross-examine him. On the subsequent date as fixed by the Family Court, the second witness for the first respondent shall be examined and cross examined. The first respondent sought to examine her own mother-in-law as a witness. But, the said request could not have been made, in view of the fact that a criminal complaint was laid by the first respondent against her mother-in-law and examining her would tantamount to compelling an accused to give evidence against herself.

(iii) Upon the first respondent examining one witness, the Family Court shall permit her to withdraw a sum of Rs.1,00,000/- (Rupees one lakh only) from out of the balance now lying to the credit of the main petition.

(iv) Upon the closure of the evidence on both sides and the arguments being concluded, the remaining amount shall also be permitted to be withdrawn by the first respondent and

V.RAMASUBRAMANIAN,J
AND
T.MATHIVANAN,J

RS

(v) The Family Court shall endeavour to dispose of the main petition within a period of two months from today.

No costs. Consequently, the above MPs are closed.

22.6.2015

Internet : Yes

To
The Third Additional Family Court, Chennai.

CMA(NPD)No.2674 of 2014 &
MP.Nos.1 of 2014 & 1 of 2015