

In the High Court of Judicature at Madras

Dated: 25.6.2015

Coram:

The Hon'ble Mr.Justice V.Ramasubramanian
and
The Hon'ble Mr.Justice T.Mathivanan

C.M.A. No.709 of 2014

Christopher E.S.S.Gnaniah .. Appellant

vs.

Anne Christopher Gnaniah .. Respondent

Prayer: Appeal is filed against the order dated 10.10.2013 in I.A.1832/2011 in DOP No.279/2011 on the file of the Family Court, Coimbatore.

For appellant : Mr.N.Surya Senthil

For respondent : Mr.N.Anand Venkatesh

JUDGMENT

[by V.Ramasubramanian, J.]

This Civil Miscellaneous Appeal is filed by the husband, questioning the correctness of an order passed by the Family Court, Coimbatore, directing the appellant to pay an interim alimony of Rs.10,000/- per month.

2. Heard Mr.N.Surya Senthil, learned counsel for the appellant and Mr.N.Anand Venkatesh, learned counsel for the respondent.

3. The appellant filed DOP No.279/2011 under Section 32 of the Indian Divorce Act, seeking dissolution of the marriage that took place between him and the respondent on 11.9.1992 on the grounds of cruelty and desertion. During the pendency of the main petition, the respondent-wife took out an Application in I.A.No.1832/2011 seeking interim alimony. By an order dated 10.10.2013, the Family Court directed the appellant to pay interim maintenance in a sum of Rs.10,000/- per month.

4. Aggrieved by the said order, the husband is on Appeal before us.

5. Before proceeding to deal with the case on merits, it should be recorded that when the above Appeal came up for admission, a Division Bench of this Court passed a conditional order directing the husband to pay a sum of Rs.1 lakh. It appears that the said amount was paid. Subsequently, the appellant was directed to pay another sum of Rs.1,10,000/-. It is admitted on both sides that both amounts have been paid.

6. Later, the Division Bench directed the appellant-husband to pay Rs.7,500/- per month during the pendency of the Appeal. It appears that from January, 2015, this amount has not been paid. Both parties blame each other for the non-payment. However, it is not necessary for us to go into the question as to who was responsible for the default.

7. But the fact remains that the amount of Rs.7,500/- per month has not reached the respondent-wife from January, 2015. The main O.P. for divorce is of the year 2011. The marriage itself was solemnized in 1992. Both parties are actually aged more than 50 years. Therefore, there is no point in keeping this Appeal pending and as a consequence, keeping the main petition lingering in the Family Court. Therefore, the Civil Miscellaneous Appeal is disposed of with the following directions:-

"[i] the appellant shall pay interim maintenance at Rs.7,500/- per month, on or before 10th of every succeeding English Calendar month, commencing from July, 2015;

[ii] the arrears payable from January, 2015 to June, 2015, shall be paid within a week's time, if not already deposited before the Family Court; if it has already been deposited before the Family Court, or if it is now deposited, then the respondent-wife is permitted to withdraw the same;

[iii] the Family Court shall take up the main O.P. for disposal and dispose it of within three months from the date of receipt of a copy of this order; and

[iv] till the disposal of the main O.P., the husband shall continue to pay Rs.7,500/- per month, towards interim maintenance, without fail."

Sd/-
Asst.Registrar (CO)

/true copy/
Sub Asst. Registrar

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To

The Family Court, Coimbatore.

Copy to

The Section Officer
VR Section,
High Court, Madras

1 cc to Mr.N.Anand Venkatesh, Advocate, sr. 31539

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