

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(PD).No.2757 of 2015
and M.P.No.1 of 2015

Rajamohan

... Petitioner

Vs.

K.S.Chandra

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 15.04.2015 made in I.A.No.16 of 2014 in H.M.O.P.No.16 of 2012 on the file of the Subordinate Judge, Poonamallee.

For Petitioner : Mr.V.Parthiban

ORDER

Challenging the order passed in I.A.No.16 of 2014 in H.M.O.P.No.16 of 2012 on the file of the Subordinate Judge, Poonamallee, the petitioner, who is the husband of the respondent, has filed the above Civil Revision Petition.

2.The respondent filed the Original Petition in H.M.O.P.No.16 of 2012 for divorce on the ground of cruelty.

3.The respondent/wife filed an application in I.A.No.16 of 2014 under Section 24 of the Hindu Marriage Act claiming interim maintenance of Rs.10,000/- per month for their daughter's maintenance. In the affidavit filed in support of the petition, the respondent has stated that their daughter is studying 11th standard and that the petitioner is not paying any amount towards the maintenance of their daughter. In the counter filed by the revision petitioner, he had stated that he used to deposit the maintenance amount in Karur Vysya Bank, Valasarawalkkam every month and the respondent used to withdraw the amount using ATM card, which is in her possession. Further, he has stated that the respondent is employed and earning a sum of Rs.10,000/- per month. The trial Court, taking into consideration the case of both parties, awarded a sum of Rs.5,000/- per month towards interim maintenance for their daughter Abhinaya.

4.Though the petitioner has contended that the respondent has been withdrawing money from the bank account using the ATM card, it was not established by the petitioner by adducing proper evidence. Though the bank passbook has been annexed in the typed set of papers, the entries as to who has withdrawn the money will not reflect in the passbook. The fact as to whether the respondent had withdrawn the money from the bank account

using ATM card should be established only by the petitioner. But in the case on hand, in spite of the averment in the counter, the said averment was not supported by any evidence. In the absence of any evidence on the side of the petitioner to prove the averment stated in the counter, the trial Court awarded a sum of Rs.5,000/- towards interim maintenance to the respondent's daughter Abhinaya.

5.Taking into consideration the present days cost of living, the award of Rs.5,000/- per month towards interim maintenance is just and proper. It is needless to say that the petitioner is bound to maintain his wife and child. In these circumstances, the award of Rs.5,000/- per month as interim maintenance to the respondent's daughter is perfectly correct.

6.I do not find any reason to interfere with the order passed by the trial Court. The Civil Revision Petition is liable to be dismissed. Accordingly, the same is dismissed.

7.Since the Original Petition is pending from the year 2012, I direct the Subordinate Judge, Poonamallee, to dispose of the H.M.O.P.No.16 of 2012, on merits and in accordance with law, within six months from the

date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
va

15.07.2015

To

The Subordinate Judge,
Poonamallee.

M.DURAIWAMY,J.
va

C.R.P.(PD).No.2757 of 2015
and M.P.No.1 of 2015

15.07.2015