

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2015

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.4423 of 2011

and

M.P.No.1 of 2011

G.Srinivasan @ Lekh Raj

... Petitioner

vs.

G.Renuka Devi

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order of the learned I Additional Family Court, Chennai dated 12.09.2011 made in I.A.No.475 of 2011 in O.P.No.1046 of 2010.

For Petitioner : Mr.M.R.Sivakumar
For Respondents : Ms.K.Parameshwari

ORDER

This revision has been filed against the order of the learned I Additional Family Court, Chennai dated 12.09.2011 made in I.A.No.475 of 2011 in O.P.No.1046 of 2010. The petitioner is the husband of the respondent herein. The above said Original Petition was filed by the petitioner herein for divorce on the ground of cruelty. The respondent (wife) filed an interlocutory application in I.A.No.475/2011 seeking interim maintenance for herself and her minor daughter S.Keerthana at

the rate of Rs.4,000/- per month to each one of them and a sum of Rs.10,000/- towards litigation expenses. The trial court, by order dated 12.09.2011, directed the petitioner herein to pay a sum of Rs.7,000/- per month (Rs.3,500/- to the respondent herein and Rs.3,500/- to Keerthana, the daughter of the petitioner) as monthly interim maintenance till the disposal of the Original Petition. The trial court also directed payment of Rs.5,000/- towards litigation expenses.

2. Questioning the correctness and legality of the said order, the present revision has been filed under Article 227 of the Constitution of India invoking the power of superintendence of this court over the courts subordinate to it.

3. The arguments advanced by Mr.M.R.Sivakumar, learned counsel for the petitioner and Mrs.K.Parameshwari, learned counsel for the respondent are heard. The copy of the impugned order and the other materials produced in the form of typed set of papers are also perused.

4. Though the order impugned in this revision directs payment of Rs.3,500/- per month to the respondent and an equal amount per month to Keerthana, the minor daughter of the petitioner, the petitioner has chosen to challenge the order by making the respondent alone the

party-respondent. The interlocutory application in which the order of interim maintenance came to be passed was filed not only by the respondent herein but also by her minor daughter represented by the respondent herein claiming a sum of Rs.4,000/- per month to each one of them and the trial court directed the petitioner herein to pay Rs.3,500/- per month to each one of them.

5. Insofar as the petitioner has not chosen to make the minor daughter of the parties to revision a party-respondent, that part of the order granting interim maintenance in favour of minor Keerthana remains unchallenged. So far as the interim maintenance awarded in favour of the respondent is concerned, considering the comparative financial status of the parties, the trial court came to the conclusion that a sum of Rs.3,500/- will be a reasonable amount to be awarded as monthly interim maintenance pending disposal of the divorce OP.

6. It is the contention of the learned counsel for the petitioner that the petitioner is a painter and he is having a meagre income of Rs.400/- per day and that the direction to pay monthly interim maintenance at the rate of Rs.3,500/- per month shall be too onerous. It is the further contention of the learned counsel for the petitioner that the respondent is employed and she is having her own source of income and that therefore the award of Rs.3,500/- per month as monthly interim

maintenance shall not be justified.

7. Per contra, it is the contention of the learned counsel for the respondent that the respondent is not employed as contended by the counsel for the petitioner and that the amount awarded by the trial court as monthly interim maintenance shall be hardly sufficient for her maintenance. Though the learned counsel for the petitioner would have submitted that the respondent is employed and she is having an income of her own, the petitioner is not in a position to produce any proof of the said contention. It is to be noticed further that the very same contention raised before the trial court was rejected on the ground that the petitioner was not able to produce any document in proof of such a contention. Therefore, the prayer of the petitioner for setting aside the order granting interim maintenance to the respondent or for reduction of the interim maintenance awarded by the trial court on the ground that the respondent is having her own income cannot be countenanced.

8. Though the petitioner would contend that he is having a meagre income of Rs.400/- per day as painter, it is the contention of the respondent that the petitioner is doing business as interior decorator and having a good income and that the amount awarded by the trial court cannot be said to be either unreasonable or excessive. The said contention was also raised before the court below and the court below

accepted the contention of the respondent and the same resulted in the passing of the impugned order directing payment of monthly interim maintenance at the rate of Rs.3,500/- to the respondent herein and Rs.3,500/- to Keerthana, the daughter of the parties to the revision. This court does not find any reason to interfere with the order of the trial court. There is no merit in the revision and the same deserves dismissal.

Accordingly, the civil revision petition is dismissed. The arrears of interim maintenance minus the amount already paid shall be paid within a period of eight weeks from today. The trial court, shall, thereafter dispose of the divorce OP within six months. However, there shall be no order as to cost. Consequently, the connected miscellaneous petition is closed.

24.02.2015

Index : Yes/No
Internet : Yes/No
asr

To
The I Additional Principal Judge
I Additional Family Court, Chennai

P.R.SHIVAKUMAR, J.

asr/-

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and

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