

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.6.2015

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Cr1.R.C.No.910 of 2008

Loganayaki

: Petitioner

versus

A.Velliangiri

: respondent

Revision filed against the order in C.R.P.No.109 of 2007 dated 3.12.2007 on the file of the District and Sessions Court / Fast Track Court No.II, Coimbatore, reversing the order dated 16.8.2007 in M.C.No.8 of 2006, on the file of the Judicial Magistrate No.II, Pollachi.

For petitioner : Mr.N.Manokaran
For respondent : Mr.R.T.Doraisamy

O R D E R

The petitioner / wife has filed M.C.No.8 of 2006, on the file of the Judicial Magistrate No.II, Pollachi, claiming maintenance. The lower Court awarded Rs.1000/- per month as maintenance. The appellate Court has, however, reversed it. Aggrieved over the same, wife has come forward with this revision.

2. The factum of marriage is not disputed by either of the parties. In fact, the respondent/husband has filed H.M.O.P.No.42 of 2006, for divorce and having lost the same, he has now filed appeal before this Court. The main ground on which the Appellate Court has rejected the prayer of the petitioner for maintenance is that her name is found as joint owner of the property owned by her parents. The Appellate Court has also held that the petitioner has not responded to the notice issued by the respondent for living together. The Appellate Court held that the petitioner was not willing for reunion and that she is capable of taking care of her needs independently.

3. The learned counsel for the petitioner submitted that the fact that the petitioner is joint owner of a property along with her parents, cannot be a reason for rejection of maintenance. She is not absolute owner of the property. Moreover, the maintenance awarded is

only Rs.1000/- and considering the present day cost of living, the said sum is only a pittance. Therefore, the learned counsel prayed that the order of the lower Court shall be restored and the order of the Appellate Court be set aside.

4. The learned counsel for the respondent submitted that the order of the Appellate Court needs no disturbance inasmuch as the petitioner is proved to be joint owner of the property owned by her parents. She is very much capable of taking care of her needs through the income derived from the property. Though notice was sent through advocate requesting her for reunion, she has not responded. The learned counsel submitted that the respondent has filed an appeal against the order in H.M.O.P.No.42 of 2006 and any observation made in this revision would affect his case before the appeal.

5. Heard both sides and perused the materials placed before me.

6. It is true that the petitioner is joint owner of the property owned by her parents. Adangal and Chitta extracts show her name as joint owner of the property. But that would not dis-entitle her from claiming maintenance from her husband. It is the duty of the husband to maintain his wife. As rightly pointed out by the learned counsel for the petitioner, the maintenance amount awarded is only Rs.1,000/- per month, which is very low going by the present economic conditions.

7. The Appellate Court has found that though the respondent has sent notice to the petitioner to live together, she has not replied. It is seen that it is the respondent who has filed petition for divorce. He has lost the case. Now, he has filed an appeal before this Court and the same is pending. Merely because notice was issued, that cannot be a ground for denying the right for maintenance. The petitioner has made allegations against the respondent that he used to harass and beat her after consuming liquor. That being the case, unless the respondent sheds the evil habit, he cannot expect the petitioner to join him.

8. Hence, the order of the learned District and Sessions Court / Fast Track Court No.II, Coimbatore, in C.R.P.No.109 of 2007, stands quashed. The respondent is directed to pay maintenance amount of Rs.1000/- to the petitioner, on or before 10th of every month, starting from the month of July 2015. The arrears of maintenance amount shall be paid within a period of six months from today.

9. The revision is disposed of accordingly.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

tar

To

- 1.The District and Sessions Court / Fast Track Court No.II, Coimbatore.
2. The Judicial Magistrate No.II, Pollachi.
- 3.-do- thro The Chief Judicial Magistrate, Coimbatore.
- 4.The Public Prosecutor, Madras High Court, Madras.

1 cc to Mr.R.T.Doraisasmy , Advocate Sr.No.29609

1 cc to Mr. N.Manokaran, Advocate Sr.No.29844

Cr1.R.C.No.910 of 2008

rj (co)
pmk.1.7.2015



WEB COPY