

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.6.2015

CORAM

THE HONBLE MR.JUSTICE V.RAMASUBRAMANIAN
and
THE HON'BLE MR.JUSTICE T.MATHIVANAN

Civil Miscellaneous Appeal No.2463 of 2013

J.Gopi

...Appellant/Respondent

Vs.

1. G.Radhika
2. Minor G.Pavithra
(Minor rep. by her mother and
natural guardian)

...Respondents/Petitioners

Appeal under section 19 (1) Family Courts Act against the order dated 18.4.2013 in I.A.No.1185 of 2012 in O.P.No.786 of 2012 on the file of the I Additional Family Court, Chennai.

For Appellant : Mr.S.K.Chandrakumar

For Respondents : No appearance

J U D G M E N T

(Delivered by V.Ramasubramanian,J.)

This appeal is filed by the husband questioning the correctness of the order passed by the Family Court granting interim alimony to the wife and minor daughter.

2. Heard Mr.S.K.Chandrakumar, learned counsel for the appellant. Mr.C.M.Mohanasundaram, learned counsel who is on record for the respondents submitted that the respondents have already taken back the papers with a consent to engage a new counsel. Therefore, he sought to have the name of the respondents printed in the cause list.

3. But, the appeal is of the year 2013. If the respondents have taken away the papers in October 2014, they should have, by now, engaged a new counsel. The main O.P. for divorce is of the year 2012. Therefore, we took up the appeal itself for disposal.

4. The main contention of the appellant is that the Family Court fixed the amount of interim alimony for the wife and the minor daughter, in an arbitrary manner, after reading the salary certificate marked as Ex.R1 wrongly. The salary certificate-Ex.R1 was issued on 12.02.2013. The certificate stated that the appellant was employed in that company from 04.6.2010. This date 04.6.2010 was wrongly taken to be the date of salary certificate and the Family Court came to the conclusion that the appellant should have been earning a much higher income.

5. On the above contention, the learned counsel for the appellant is perfectly right. The salary certificate-Ex.R1 shows that it was issued on 12.02.2013. The net salary of the appellant was Rs.27,623/-. Therefore, the Family Court was obviously wrong in taking the date of appointment, namely 04.6.2010 as the date of issue of salary certificate.

6. But, on the above score, we do not wish to interfere with the order of the Family Court. This is for the simple reason that even if Rs.27,623/- is taken to be the actual income, the amount of Rs.8,000/- awarded in favour of the wife and a sum of Rs.4,000/- awarded in favour of the child cannot be taken to be highly disproportionate. Perhaps the Family Court could have awarded Rs.2,000/- less than what had it awarded if it had appreciated Ex.R1 in the right perspective. But, now a period of more than two years have passed from the date of the order of the Family Court. Therefore, we do not wish to interfere with the order of the Family Court.

7. Hence, this appeal is dismissed. However, the Family Court is directed to dispose of the main O.P. within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, M.P.Nos.1 and 2 of 2013 are also dismissed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

kpl

To

The Additional Judge,
Family Court,
Chennai.

Copy to

The Section Officer,
V.R.Section, High Court,
Madras.

1 CC to Mr.S.K.Chandrakumar, Advocate SR.No.31025

CMA No.2463 of 2013

UG (CO)
PSI (06.07.2015)



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