

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
AND
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

C.M.A.3257 of 2013 and M.P.No.1 of 2013

S.M.Jayaprakash

..Appellant

Vs.

R.Vijayalakshmi

..Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act against the order dated 28.06.2013 passed in I.A.No.25 of 2012 in H.M.O.P.No.30 of 2013 on the file of Sub-Court, Tiruttani.

For Appellant : Mr.A.Gauthaman

For respondents : Mr.N.Sudharsan

ORDER

(Order of the Court was made by HULUVADI G. RAMESH, J.)

This Appeal has been filed as against the order passed in I.A.No.25 of 2012 in H.M.O.P.No.30 of 2013 dated 28.06.2013 by the Sub Judge, Tiruttani, in which, a sum of Rs.5,000/- per month was ordered to be paid by the petitioner as maintenance to his wife and child.

2. Heard the learned counsel appearing for the respective parties.

3. It appears that the petitioner/husband has filed the H.M.O.P. petition for restitution of conjugal rights before the trial Court and as per the submission of the learned counsel for the petitioner, at one stage, his wife/respondent has also filed a petition for divorce and subsequently, she had withdrawn the same. Be that as it may, in the application in I.A.No.25 of 2012 filed by the wife/respondent seeking litigation expenses, the trial Court has awarded an interim maintenance of a sum of Rs.5000/- per month to the wife and child.

4. The contention of the petitioner is that the trial Court ought not to have awarded maintenance to the wife, while she has prayed only for litigation expenses. When we tried to negotiate the matter, learned counsel for the petitioner expressed that due to subsequent developments, the petitioner/husband is not willing to join with the respondent/wife and the petitioner would file a petition for divorce. On the other hand, learned counsel for the respondent/wife submitted that though a case for restitution of conjugal rights has been filed by the petitioner, however, both the parties are at loggerheads. When the learned counsel for the respondent/wife submitted that the respondent/wife is ready to join with the petitioner/husband, learned counsel for the petitioner objected to the same stating that at this point of time the petitioner is not willing to join the respondent and he

further stated that the order passed by the Trial/Family Court awarding a sum of Rs.5000/-per month as maintenance is not proper when the respondent/wife was earning more than the petitioner/husband, as she was a teacher.

5. Considering the facts and circumstances of the case and considering the submissions made by the learned counsel for the respective parties, we are of the view that instead of precipitating the matter further, the trial Court may be directed to dispose of the H.M.O.P.No.30 of 2012 within a stipulated time.

6. Accordingly, the trial Court is directed to dispose of H.M.O.P.No.30 of 2012 within a period of three months from the date of receipt of a copy of this order. If the matter could not be decided within the period of three months stipulated as above, the maintenance ordered in favour of the respondent/wife will stand cancelled. The Civil Miscellaneous Appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

(H.G.R.,J.) (K.R.C.B.,J.)
25.04.2016

Index:Yes/No
vsi

To
The Sub-Court, Tiruttani.

HULUVADI G. RAMESH, J.
and
K.RAVICHANDRABAABU, J.

vsi

C.M.A.No.3257 of 2013

25.04.2016