



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.09.2015

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.M.A. (MD) No.565 of 2014
and
M.P. (MD) No.2 of 2014

M.Manikandan

... Appellant / Respondent

-vs-

Dhanalakshmi

... Respondent / Petitioner

PRAYER: Appeal is filed under Section 19 of the Family Court Act, to set aside the fair and decreetal order in I.A.No.187 of 2013 in H.M.O.P.No.177 of 2013, dated 03.10.2013, on the file of the Family Court, Madurai, and allow the civil miscellaneous appeal and order divorce to the petitioner.

For Appellant : Mrs.Laxshmi Gopinathan
for M/s.Polax Legal Solution

For Respondent : Mr.K.Guhan

J U D G M E N T

This appeal is by the husband as against the grant of maintenance to his wife seeking divorce from him.

2. Respondent filed H.M.O.P.No.177 of 2013, in the Family Court, Madurai, for divorce. She filed I.A.No.187 of 2013, under Section 24 of Hindu Marriage Act, seeking interim maintenance of Rs.15,000/- per month for herself. After hearing both sides, the learned Judge, Family Court, Madurai, directed payment of Rs.1,500/- per month.

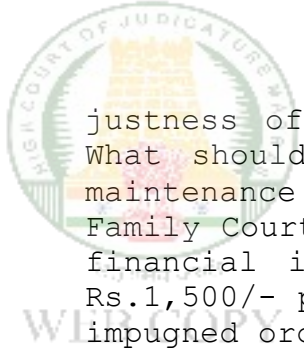
3. According to the learned counsel for the appellant, respondent only seeks divorce. It is her own volition. He is willing to live with her. In such circumstances, the order granting maintenance is unsustainable in law.

4. On the other hand, the learned counsel for the respondent would submit that the amount towards interim maintenance granted by the Family Court is very meagre, however, the appellant has no heart to pay even that amount.

5. I have anxiously considered the rival submissions, perused the materials on record and also the impugned order.

<https://hcservices.ecourts.gov.in/hcservices/>

6. In an application, under Section 24 of the Hindu Marriage Act,



justness of the prayer in the main H.M.O.P., should not be considered. What should be considered is financial capacity of the spouses. The maintenance itself is *pendente lite* maintenance. In this case, the Family Court has considered the financial capacity of the husband and the financial inability of the respondent to maintain herself and granted Rs.1,500/- per month towards interim maintenance. I do not find that the impugned order is flawed.

7. In the result, this civil miscellaneous appeal fails and it is dismissed. The order, dated 03.10.2013, in I.A.No.187 of 2013 in H.M.O.P.No.177 of 2013, passed by the learned Judge, Family Court, Madurai, is upheld. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

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To:

The Judge, Family Court, Madurai.

+1CC to Mr.V.Ramakrishnan Advocate Sr.No.57351

GJM/SKS/RR/12.10.15-2P-3C

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