



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 12.10.2015

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.P (MD) No.1540 of 2015

and M.P (MD) No.1 of 2015

V.Jayaraman

.. Petitioner/Respondent/Petitioner

-vs-

P.Muthulakshmi @ Muthammal

.. Respondent/Petitioner/Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 11.03.2013 passed in I.A.No.516 of 2011 in H.M.O.P.No.201 of 2006 on the file of the Subordinate Judge, Tuticorin.

For Petitioner : Mr.S.Subbiah
For Respondent : No appearance

ORDER

1. As only a short point is involved, we shall dispose of this revision today at the admission stage itself.

2. This revision is by an husband as against his wife and son with regard to the grant of interim maintenance to them under Section 24 of the Hindu Marriage Act.

3. The revision petitioner married the respondent according to Hindu Rights and Customs. They were blessed with a child. He is Arul. The couples belongs to Alwarthirunagari in Tuticorin District. Subsequently, difference of opinion arose between them. The revision petitioner filed H.M.O.P.No.201 of 2006 before the learned Sub Judge, Tuticorin for grant of divorce. In this Original Petition, the respondent filed I.A.No.516 of 2011 under Section 24 of the Hindu Marriage Act seeking maintenance of Rs.7,000/- per month for her and her son and a sum of Rs.3,000/- towards litigation expenses.

4. After hearing both sides, the trial Court granted Rs.3,000/- to the son and Rs.2,000/- to the respondent towards their medical expenses, food, clothing, education and other expenses. Aggrieved, this revision has been directed by the revision petitioner.

5. According to the learned counsel for the revision petitioner, as per Section 24 of the Hindu Marriage Act, in a maintenance petition one of the important aspect is income of the husband has to be fixed. Now, in this case, there was no fixed income for the husband. He has no independent source of income and he is paying interest every month to others. Actually, he is a poor man. A poor man cannot be asked to pay Rs.5,000/- per month. It is unbearable and it cannot be possible by the revision petitioner to pay such an huge amount.



6. The revision petitioner took notice to the respondent which was served, her name also has been printed in the cause-list, but she did not appear.

7. I have anxiously considered the submissions of the learned counsel for the revision petitioner and also the impugned order.

8. As on date, the marital bondage between the revision petitioner/husband and the respondent has not been disturbed. There is no dispute as to the paternity of the son of the revision petitioner. The revision petitioner belongs to Alwarthirunagari in Tuticorin District. It is mentioned in the affidavit that he is earning out of cash crops and plantains. That area is famous for such cultivation. All double crops. In that area, there is lot of irrigation facilities. It is a fertile area and the agricultural yield will be more. So far as the financial capacity of the revision petitioner, for the purpose of Section 24 of the Hindu Marriage Act, is concerned 'his ability to earn', who is an able bodied, is also to be considered. There is a popular saying that even an husband can beg to feed his wife and children.

9. Now, in this case, it cannot be accepted that the revision petitioner has no money to maintain his wife and son.

10. His son is studying in a School. Now-a-days, school books, note books etc., are also not cheaper. Nursery Schools are squeezing the parents. Rs.3,000/- per month for the son and Rs.2,000/- per month for the wife towards their interim maintenance is not a excessive. Therefore, we do not wish to reduce it.

11. In the circumstances, this Civil Revision Petition fails and it is dismissed. The learned Subordinate Judge, Tuticorin is directed to disposed of H.M.O.P.No.201 of 2006 within three months from the date of receipt of a copy of this order. It is also made clear that the disposal includes disposal by way of Mediation, Conciliation, Compromise and settlement. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Per.Admn.)

/ True Copy /

Sub-Assistant Registrar

To

1.The Principal District Judge,
Tuticorin District.

2.The Sub Judge, Tuticorin.

3.The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.S.SUBBIAH, Advocate, SR No.60853

ps

SH/JGB-DP:04.11.2015/2P:5C

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

C.R.P (MD) No.1540 of 2015
and M.P (MD) No.1 of 2015
12.10.2015