THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

CIVIL REVISION PETITION No.2399 of 2015

ORDER:

This revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Judge, Family Court, Visakhapatnam in I.A. No.553 of 2014 in FCOP No.1225 of 2014 dated 09.03.2015.

Respondents 1 and 2 herein filed I.A. No.553 of 2014 claiming interim maintenance at Rs.15,000/- per month to each of them from the petitioner herein. Before the Court below, the petitioner herein contended that he had no means to pay maintenance to respondents 1 and 2; his salary was his only source of income; he was paying EMI of Rs.12,000/- for the flat purchased by him on a loan of Rs.10 lakhs obtained from Indian Bank; he was also repaying the HDFC bank loan, which he took for his marriage, by paying EMI of Rs.8,700/- per month; he had also to pay LIC premium of Rs.3,000/- per month; he had borrowed from his elder brother, and was paying him Rs.10,000/- per month; he had to clear the loan amount of Rs.33,700/-; and the remaining amount was not sufficient for him to eke out his livelihood.

The Court below held that the petitioner's contribution to LIC, without paying any amount to his wife and son, could not be appreciated; a Veterinary surgeon would be practicing privately, and making money apart from his salary; and, taking all aspects into consideration, respondents 1 and 2 should be maintained by the petitioner. The I.A. was allowed directing the petitioner herein to pay, in total, a monthly interim maintenance of Rs.8,000/- to respondents 1 and 2 herein from the month of March, 2015. The first such payment was directed to be made on or before 05.04.2015; and the subsequent payments were directed to be made on or before the 5th of every succeeding month.

Sri A. Srinivasulu, Learned Counsel for the petitioner, would submit that the petitioner's obligations to discharge his loans had resulted in his taking home a measly sum of Rs.8,000/- P.M, which was insufficient for his own living; he cannot be asked to pay his entire take home pay towards maintenance of his wife and son; and he is in no position to pay for the maintenance of his wife and son. The fact that the petitioner's net salary is Rs.41,500/- per month is not in dispute. The LIC policy taken out by the petitioner of Rs.2,00,000/-, in which his brother is the nominee, is dated 10.03.2008, and the quarterly LIC premium is Rs.3,290/-; another LIC policy of Rs.5 lakhs, wherein his mother is shown as his nominee, involves a quarterly premium payment of Rs.6,125/-. The Court below held that the monthly premium, which the petitioner was required to pay, was Rs.3,000/-; and a sum of Rs.8,618/- was being deducted from his salary towards clearance of the HDFC loan.

The fact that the petitioner has chosen to increase his savings would not justify his failure to maintain his wife and son. The petitioner is a Veternary doctor at Visakhapatnam. As against the claim of Rs.15,000/- each by respondents 1 and 2, the Court below has merely granted a total amount of Rs.8,000/- for both of them. The order of the Court below does not suffer from any patent illegality necessitating interference under Article 227 of the Constitution of India. I see no reason, therefore, to interfere with the order of the Court below. Suffice it to grant the petitioner one month's time for payment of arrears of interim maintenance of Rs.8,000/- from March, 2015 to June, 2015. The monthly maintenance of Rs.8,000/-, liable to be paid from July, 2015, shall be promptly paid by the petitioner, as directed by the Court below, failing which it would be open to the respondents to proceed against the petitioner in accordance with law.

Subject to the above observations, the Civil Revision Petition fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall also stand dismissed. No costs.

RAMESH RANGANATHAN, J

Date: 03.07.2015

MRKR