

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

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Civil Revision Petition No.1304 of 2015

ORDER:

This Revision, under Article 227 of the Constitution of India, is preferred against the order passed by the Additional Family Court, Visakhapatnam in I.A.No.409 of 2014 in H.M.O.P.No.1111 of 2013 dated 04.02.2015.

The respondent herein filed H.M.O.P.No.1111 of 2013 under Section 24 of the Hindu Marriage Act claiming interim maintenance at the rate of Rs.20,000/- per month, and legal expenses to the tune of Rs.25,000/-. The parties shall, hereinafter, be referred to as they are arrayed in this C.R.P. The petitioner herein is working as an Upper Divisional Clerk with the Central Public Works Department, Government of India. In the order under revision, the Court below observed that the respondent was the legally wedded wife of the petitioner; they had a school going child, who was in the custody of the respondent-wife; the petitioner's brother was mentally retarded; the petitioner had purchased a car taking a loan from the State bank of India with E.M.I. of Rs.7,216/- per month; the last instalment falls due in the month of September 2015; he had to pay 8 more instalments only; while his gross salary was Rs.29,826/-, his net salary was Rs.19,496/-, and he was contributing Rs.10,000/- towards his G.P.F.; the father of the petitioner was a retired employee, and was getting pension; he was also entitled for medical reimbursement; the respondent wife was a house-wife, and did not have any income of her own; being the husband and a father it was the responsibility of the petitioner to maintain his wife and son; the petitioner was contributing nearly half of his salary towards G.P.F. which showed that he was intentionally contributing more amount towards G.P.F. with a view to avoid payment of maintenance to his wife and son.

The Court below, after taking note of the contention of the revision petitioner that he had purchased the car only for transportation of his father and brother to the hospital, observed that the fact remains that the car loan is coming to an end; while the petitioner had to look after his old aged parents and mentally retarded brother, he could not avoid his legal obligations of paying maintenance to his wife and son; the petitioner was contributing more than what he was required to contribute which was, ordinarily, 8%; and as against the required G.P.F. contribution of Rs.800/- per month, he was contributing Rs.10,000/-. The Court below concluded that an interim maintenance of Rs.10,000/- per month was reasonable.

Before this Court Sri G.Madhusudhan Reddy, learned counsel for the petitioner, would submit that the petitioner has been contributing towards his G.P.F. even before the H.M.O.P. was filed; it is evident, therefore, that his contribution towards G.P.F. is not to avoid payment of maintenance to his wife and child; the Court below, having noted that the car was purchased to transport his parents and brother and that the car loan would come to end by September 2015, erred in granting maintenance at Rs.10,000/- per month from January 2015 itself; this Court should modify the order and grant interim maintenance of Rs.5,000/- per month till September 2015; and the petitioner is ready and willing to pay Rs.10,000/- per month thereafter.

While a Government servant is required to contribute a minimum percentage of his salary towards his G.P.F., any sum in excess thereof is purely voluntary, and is contributed by the employee on his own volition. The finding of the Court below, that the G.P.F. required to be contributed by the petitioner is Rs.800/- is not disputed before this Court. It is evident, therefore, that as against the stipulated monthly contribution of Rs.800/- per month, the petitioner is contributing Rs.10,000/- per month. He is contributing a sum in excess of Rs.9,000/- towards his G.P.F. on his own volition. Such savings by him, cannot be at the cost of depriving the respondent-wife and their minor child of the interim maintenance necessary for their survival. From the evidence on record it is evident that the respondent-wife does not have any independent source of income. The order of the Court below granting monthly maintenance of Rs.10,000/- per month from January 2015, for both the estranged wife and minor child together, cannot be said to be so unjust as to necessitate interference in the proceedings under Article 227 of the Constitution of India. I see no reason to interfere with the order of the Court below.

The Civil Revision Petition fails and is, accordingly, dismissed.

Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

RAMESH RANGANATHAN, J

05th June 2015.

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Date: 05.06.2015

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