

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2016

CORAM :

THE HON'BLE MR. JUSTICE A.SELVAM
and
THE HON'BLE MR. JUSTICE P.KALAIYARASAN

C.M.A.No.1071 of 2016
& C.M.P.No.8036 of 2016

R.Venkataraman

.. Appellant

Vs.

S.R.Meenkashi

.. Respondent

Prayer: Appeal filed under Section 19 of the Family Courts Act against the fair and decretal order dated 12.8.2013 passed in I.A.No.1066 of 2012 in O.P.No.1090 of 2011 passed by the Principal Judge, Family Court, Chennai.

For Appellant .. Mr.Ramesh Kumar Chopra
For Respondent .. Mr.J.Saravanavel

JUDGMENT

(Judgment of the Court was delivered by A.SELVAM, J.)

The Civil Miscellaneous Appeal is directed against the order dated 12th August, 2013 passed in I.A.No.1066 of 2012 in O.P.No.1090 of 2011 by the Principal Judge, Family Court, Chennai.

2. The appellant herein, as petitioner, has filed a petition in O.P.No.1090 of 2011 on the file of the Court below under section 13(1)(i-a) of Hindu Marriage Act, 1955, wherein the present respondent has been arrayed as sole respondent. During pendency of the same, the respondent, as petitioner, has filed I.A.No.1066 of 2012 under section 24 of the Hindu Marriage Act, 1955, praying to direct the petitioner in O.P.No.1090 of 2011 to pay interim maintenance of Rs.50,000/- per mensem,

Rs.15,000/- for rental accommodation and Rs.50,000/- towards litigation expenses. The court below, after considering the divergent contentions raised on either side, has allowed I.A.No.1066 of 2012 in part and directed the respondent therein to pay a sum of 15,000/- per mensem as interim monthly maintenance. Against the order passed by the court below, the present Civil Miscellaneous Appeal has been preferred, at the instance of the respondent/petitioner as appellant.

3. The learned counsel appearing for the appellant has sparingly contended that the respondent/petitioner is having sufficient means to maintain herself and in fact, she is owning house and thereby, getting monthly rent and the court below, without considering the averments made in the counter filed in I.A.No.1066 of 2012 has erroneously allowed the same in part and therefore, the order passed by the court below is liable to be set aside.

4. The learned counsel appearing for the respondent/petitioner has contended that the respondent/petitioner is not having sufficient means to maintain herself and under such circumstances, present petition has been filed in I.A.No.1066 of 2012 under section 24 of the Hindu Marriage Act, 1955 and the court below, after considering the rival contentions put forth on either side, has partly allowed the petition filed in I.A.No.1066 of 2012 and therefore, the order passed by the Court below does not require any interference.

5. It is an admitted fact that the appellant herein, as petitioner, has filed O.P.No.1090 of 2011 on the file of the Court below under section 13(1)(i-a) of Hindu Marriage Act, 1955, wherein the present respondent has been arrayed as sole respondent. During pendency of the same, present respondent, as petitioner, has filed I.A.No.1066 of 2012 for getting interim monthly maintenance.

6. The main contention put forth on the side of the appellant is that the respondent is owning several properties and thereby getting monthly rent and she is having sufficient means to maintain herself and the same has not been considered by the Court below.

7. In fact, this Court has perused the entire order passed in I.A.No.1066 of 2012, wherein it has been clearly held that the respondent/petitioner is not having sufficient means to maintain herself.

8. Even though it has been specifically contended on the side of the appellant herein to the effect that the respondent/petitioner is having sufficient means to maintain herself, no document has been filed for the purpose of

substantiating the contentions raised on his side.

9. Considering the fact that no document has been filed on the side of the appellant for the purpose of proving the averments mentioned in the petition, the court below has rightly passed the impugned order.

10. It is an admitted fact that the appellant herein is the husband of the respondent/petitioner. It is also equally an admitted fact that he has filed Original Petition No.1090 of 2011 for getting divorce.

11. Considering the aforesaid factual circumstances, it is needless to say that as per law, the appellant herein is bound to give interim monthly maintenance to the respondent/petitioner and the Court below, after considering the overall contentions raised on either side, has rightly passed the impugned order and in view of the discussions made earlier, this Court has not found any acceptable force in the contentions put forth on the side of the appellant and altogether, the present Civil Miscellaneous Appeal deserves to be dismissed.

In fine, this Civil Miscellaneous Appeal is dismissed and the order passed in I.A.No.1066 of 2012 in O.P.No.1090 of 2011 by the Principal Judge, Family Court, Chennai is confirmed. However, a specific direction is given to the Principal Judge, Family Court, Chennai to dispose of O.P.No.1090 of 2011 before the end of September 2016 and both parties are directed to give their unstinted support to the court. No costs. Consequently, the connected Miscellaneous Application is closed.

-s/d-

Assistant Registrar

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Sub-Assistant Registrar

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To

The Principal Judge, Family Court, Chennai.

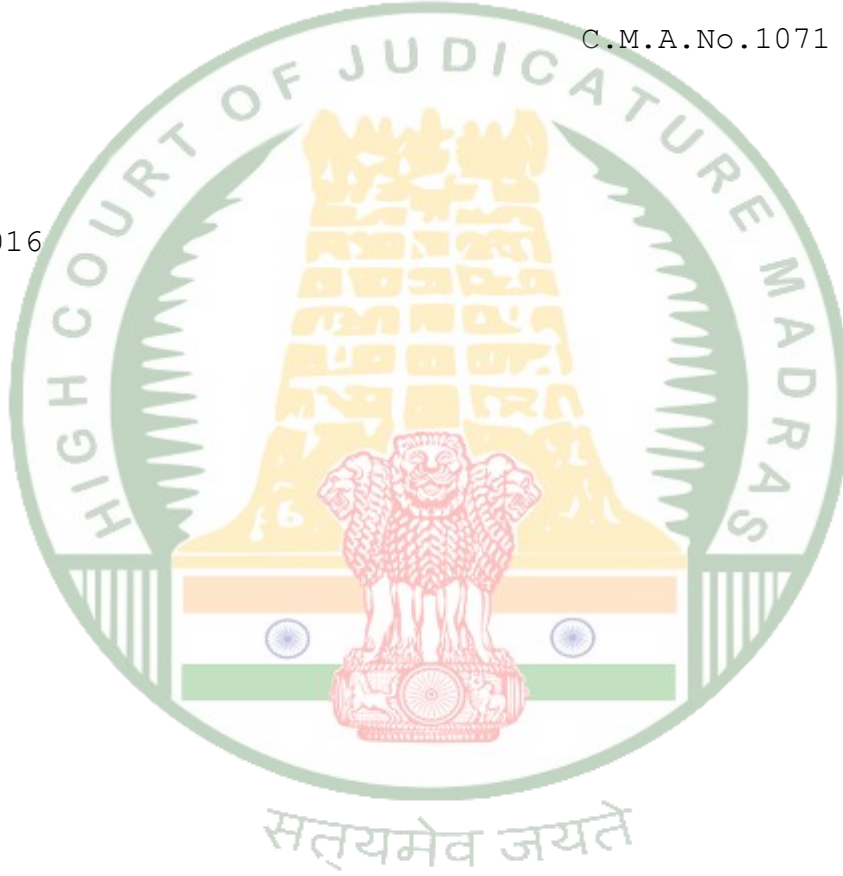
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The Section Officer
VR Section
High Court Madras

+1 cc to Mr.J.Saravanel Advocate sr.31735/16

C.M.A.No.1071 of 2016

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