

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01-08-2016

CORAM:

THE HONOURABLE MR. JUSTICE A. SELVAM
AND
THE HONOURABLE MR. JUSTICE P. KALAIYARASAN

C.M.A.No.1170 of 2016

V. Prabhuram ... Appellant/Respondent

Vs.

P. Dhivvya ... Respondent /Petitioner

Civil Miscellaneous appeal u/s. 19 of Family Court Act against the fair and decreetal order dated 03-03-2016 passed by the Principal Family Court, Coimbatore in I.A.No.836 of 2013 in H.M.O.P.No.954 of 2011.

For appellant :: Mr. S. Silambannan, SC
for M/s. C. Uma and R. Venkatavarthan

For respondent :: No appearance

JUDGMENT

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

This civil miscellaneous appeal has been directed against the order dated 03-03-2016, passed in I.A.No.836 of 2016 in H.M.O.P.No.954 of 2011 by the Principal Family Court, Coimbatore.

2. The appellant herein, as petitioner has filed H.M.O.P.No.954 of 2011 for getting decree of divorce, wherein the present respondent has been shown as respondent. During pendency of the same, the respondent as petitioner has filed I.A.No.836 of 2016 under Section 24 of the Hindu Marriage Act, 1955 for getting interim monthly maintenance. The Trial Court after considering the contentions put forth on either side, has allowed the same and thereby, directed the respondent therein to give a sum of Rs.7000/- (Rupees Seven thousand only) per mensem towards interim monthly maintenance. The order passed by the Trial Court is being challenged in the present civil miscellaneous appeal.

3. The learned Senior counsel appearing for the appellant has repeatedly contended that the appellant is the husband of the respondent and he is not doing any work. Under the said circumstances, he is not in a position to give a sum of Rs.7000/- (Rupees Seven thousand only) per mensem towards interim monthly maintenance and the Trial Court without considering the financial status of the appellant has erroneously allowed I.A.No.836 of 2013 and therefore, the order passed by the Trial Court is liable to be set aside.

4. It is an admitted fact that the appellant/husband has filed H.M.O.P.No.954 of 2011 on the file of the Principal Family Court, Coimbatore. It is also equally an admitted fact that during pendency of the same, I.A.No.836 of 2013 has been filed by the respondent/wife under Section 24 of the Hindu Marriage Act, 1955 for getting interim monthly maintenance.

5. The Trial Court after considering the rival contentions put forth on either side has allowed the application and thereby, directed the appellant/husband to give a sum of Rs.7000/- (Rupees Seven thousand only) per mensem towards interim monthly maintenance.

6. The only defence taken on the side of the appellant/husband is that he is not having sufficient means to pay anything to the respondent/wife. Further, it is contended on the side of the appellant/husband that the respondent/wife is having sufficient means to maintain herself. On the side of the appellant/ husband, in the Trial Court, Exs-R1 and R2 have been filed and this Court has perused the same and found that those documents are not at all sufficient to prove that the respondent/wife is having sufficient means to maintain herself. The Trial Court after considering the pendency of H.M.O.P.No.954 of 2011 and also after considering the fact that the respondent/wife is not having sufficient means to maintain herself during the pendency of H.M.O.P.No.954 of 2011 has rightly awarded the said sum of Rs.7000/- (Rupees Seven thousand only) per mensem towards interim monthly maintenance.

7. In view of the discussions made earlier, this Court has not found any force in the contentions put forth on the side of the appellant and therefore, this civil miscellaneous appeal deserves to be dismissed.

In fine, the civil miscellaneous appeal is dismissed without costs. The order passed in I.A.No.836 of 2013 in H.M.O.P.No.974 of 2011 by the Trial Court is confirmed. However, the Trial Court is strictly directed to dispose of

H.M.O.P.No.974 of 2011 before the end of October 2016 and report the same to the Registry, without fail.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

glp

To

1. The Principal Family Court, Coimbatore
(To dispose of HMOP No.974/2011
before the end of October 2016
and report the same to the Registry,
without fail).

2. The Section Officer,
Judicial Section
High Court, Madras.

1 cc to M/s.C.Uma, Advocate, sr.43391

2 ccs to Mr.S.V.Pravin Rathinam, Advocate, sr.43380

C.M.A.No.1170 of 2016

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