

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 08-08-2016

CORAM:

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

C.M.A.No.1599 of 2016

Kameshwaran Appellant/Respondent/
Petitioner

Vs.

Arun Bharathi Respondent/Petitioner/
Respondent

Civil Miscellaneous Appeal against the fair and decreetal
order dated 07-06-2016 made in I.A.No.126 of 2016 in
H.M.O.P.No.345 of 2015 by the Family Court, Erode.

For appellant :: Mr. Madhu Balan
for M/s. N.Manokaran
R. Renuka Devi

JUDGMENT

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

This civil miscellaneous appeal is directed against the
order dated 07-06-2016 passed in I.A.No.126 of 2016 in
H.M.O.P.No.345 of 2015 by the Family Court, Erode.

2. The appellant herein as petitioner has filed
H.M.O.P.No.345 of 2015 on the file of the Trial Court for
getting relief of divorce wherein the present respondent has
been shown as sole respondent. During the pendency of the
same, the respondent as petitioner has filed I.A.No.126 of
2016 under Section 24 of the Hindu Marriage Act, 1955 praying
to grant interim maintenance to her and minor child and also
litigation expenses.

3. The Trial Court after considering available evidence
on record has directed the respondent therein to give a sum of

Rs.3000/- (Rupees Three thousand only) to the petitioner and a sum of Rs.3000/- (Rupees Three thousand only) to the minor child and also Rs.10,000/-(Rupees Ten thousand only) towards litigation expenses by way of passing the impugned order and the same is being challenged in the present civil miscellaneous appeal.

4. Considering the nature of the contentions put forth on the side of the appellant, notice need not be sent to the respondent and the present civil miscellaneous appeal is liable to be disposed of on the basis of the contentions put forth on the side of the appellant.

5. The learned counsel appearing for the appellant/respondent has contended to the effect that for granting interim monthly maintenance to minor child, no provision is available under Section 24 of the Hindu Marriage Act, 1955. But the Trial Court without considering lack of provision in the said Section has erroneously awarded a sum of Rs.3000/- (Rupees Three thousand only) to the minor child and under the said circumstances, the order passed by the Trial Court is liable to be modified.

6. On the basis of the contentions put forth on the side of the appellant, the Court has to look into provisions of Section 24 of the said Act, wherein no specific provision is available with regard to interim monthly maintenance of a minor child. The Trial Court without looking into the provision of Section 24 of the Hindu Marriage Act, 1955 has erroneously awarded a sum of Rs.3000/- per mensem towards the monthly maintenance of minor child and to that extent, the present civil miscellaneous appeal is liable to be allowed.

7. In fine, the civil miscellaneous appeal is allowed in part at the stage of admission. The order passed in I.A.No.126 of 2016 in H.M.O.P.No.345 of 2015 by the Family Court, Erode is modified as follows:

The respondent is alone entitled to interim monthly maintenance of Rs.3000/- (Rupees Three thousand only) and litigation expenses of Rs.10,000/-(Rupees Ten thousand only).

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

glp

To
The Judge,
The Family Court, Erode.

1 cc to Mr.N.Manokaran, Advocate, sr.45260

C.M.A.No.1599 of 2016

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