

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.12.2016

Coram

The Honourable MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.PD.No.154 of 2014
and
M.P.No.1 of 2014

Raja ... Petitioner
vs.

1. Priyadharshini
2. Minor Sridhar ... Respondents

[Minor rep.by guardian and
mother Priyadharshini
the first respondent]

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 27.11.2013 passed in I.A.No.44 of 2011 in HMOP No.22 of 2011 on the file of the learned Subordinate Judge, Neyveli.

For Petitioner : Mr.P.Mani

For respondents : No appearance

ORDER

The husband, in the matrimonial proceedings has filed the above revision, challenging the award of maintenance passed by the Court below dated 27.11.2013 passed in I.A.No.44 of 2011 filed under Section 24 of the Hindu Marriage Act, 1955, in HMOP No.22 of 2011.

2. The brief facts of the case would run thus:

(i) The revision petitioner/husband has filed a petition for divorce under Section 13(1)((ia) of the Hindu Marriage Act, 1955. Pending the same, I.A.No.44 of 2011 was filed by the first respondent/wife claiming maintenance of Rs.10,000/- for herself and Rs.5,000/- for the child. The first respondent had alleged that the revision petitioner/husband is having illegal relationship with another woman whereby neglecting her and the child. According to her, the revision petitioner is said to be working as Grade I Technician in Mines II, Neyveli Lignite Corporation and is earning a sum of Rs.40,000/- per month, apart from other bonus and incentives. As the revision petitioner/husband had a bounden duty to maintain herself and his child, the above application was filed.

(ii) The said application was resisted by the revision petitioner herein. He has stated that the first respondent/wife was having illegal relationship with another man and therefore, he had to be away from her. According to him, the first respondent had completed her Teachers Training and she is earning about a sum of Rs.8,000/- per month. Therefore, she is not entitled to maintenance.

(iii) The Court below after considering the fact that the revision petitioner/husband is working as Grade II Technician in Neyveli Lignite Corporation and earning about a sum of Rs.60,000/- per month, awarded a sum of Rs.5,000/- towards interim maintenance for the first respondent/wife alone from the date of filing of the said petition and dismissed the petition, insofar as the second respondent is concerned with liberty to the first respondent/wife to file a petition under Section 26 of the Hindu Marriage Act, 1955.

(iv) Aggrieved by the same, the revision petitioner/husband has preferred this civil revision petition.

3. Heard the learned counsel for the revision petitioner and though vakalat has been filed on behalf of the respondents, the respondents did not appear either in person or through the counsel.

4. It is pointed out by the learned counsel for the revision petitioner that in the cross examination the first respondent/wife had accepted that she is working as a teacher and is earning a sum of R.1,500/- per month and therefore, she is not entitled to any

maintenance from the revision petitioner. Even assuming that the first respondent/wife is working as a teacher, excepting her admission that she is earning about Rs.1,500/- per month there is no other documentary evidence to show that she was earning more than Rs.10,000/- per month as alleged by the revision petitioner.

5. Whereas the first respondent/wife had produced the salary slip pertaining to the years 2011 and 2013 wherein it is found that the revision petitioner was earning Rs.25,000/- per month. When the proceedings between the spouses are pending, it is the bounden duty of the husband, who is earning more than his wife to maintain her. Further the first respondent/wife is earning only a meagre sum of Rs.1,500/-per month and that it would not be sufficient for her to maintain herself and the child. Though the original petition was filed in the year 2011, there seems to be no progress in the case also. Even after the award of maintenance, the revision petitioner/husband has not been paying any money except depositing a sum of Rs.10,000/- [Rupees ten thousand only], as directed by this Court, at the time of admission vide order dated 30.01.2014.

6. In such circumstances, the revision petitioner cannot have any indulgence from this Court. However, considering the fact that he is also spending for the educational expenses of his child, viz., the second respondent, as contended by him, he shall pay a sum of Rs.4,000/- per month towards maintenance for the first respondent/wife.

7. Accordingly, the revision petitioner/husband is directed to pay a sum of Rs.4,000/- [Rupees four thousand only] per month from the date of the application. Further the revision petitioner is also directed to pay the arrears of maintenance from the date of the petition and continue to pay the same every month on or before 5th of the every succeeding month.

8. With the above modification, this Civil Revision Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No
Internet: yes

PUSHPA SATHYANARAYANA.J

vj2

To

The Subordinate Judge, Neyveli.

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