

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 23.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.621 of 2016
and
C.M.P.No.5151 of 2016

Dr.Hariprasad

... Appellant/Petitioner

Vs

1. S.P.Sheela

2. Minor.Janani

... Respondents/Respondents

(Minor Rep.by her mother
the 1st Respondent herein)

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act against the order dated 22.02.2016 made in I.A.No.342 of 2014 in M.O.P.No.339 of 2011 on the file of the Family Court, Pondicherry in so far as it related to the period from 15.05.2011 to 16.05.2014.

For Appellant : Mr.S.Subbiah

J U D G M E N T
सत्यमेव जयते

(The Judgment of the Court was delivered by S.VAIDYANATHAN,J.)

This Civil Miscellaneous Appeal is filed by the appellant/husband challenging the order dated 22.02.2016 made in I.A.No.342 of 2014 in M.O.P.No.339 of 2011 on the file of the Family Court, Pondicherry granting interim maintenance to the respondents, who are wife and daughter of the appellant.

2. The brief facts of the case are as follows:

Admittedly, the appellant and the respondent are husband and wife. From the wedlock a girl child was born to them. Due

to some misunderstanding between them, the appellant filed a petition in M.O.P.No.339 of 2011 before the Family Court, Pondicherry, seeking divorce on the ground of cruelty. During the pendency of the said petition, the respondent/wife filed a petition in I.A.No.342 of 2014 seeking interim maintenance to herself and her daughter. The Family Court, after considering the submissions on both sides, ordered interim maintenance of Rs.10,000/- to the respondents. Aggrieved by the said grant of interim maintenance, the appellant/husband is before this Court.

3. Heard the learned counsel appearing for the appellant and perused the materials placed before this Court.

4. A perusal of the order of the Family Court reveals that there is some misunderstanding between the appellant and the respondent and a petition seeking divorce is pending. In the petition filed by the respondent/wife seeking interim maintenance, the Family Court considering the submission that the appellant/husband is a Medical Practitioner by profession and as the appellant has admitted in his cross examination that he agreed to pay a sum of Rs.10,000/- per month towards interim maintenance, the Family Court allowed the application directing the appellant herein to pay a sum of Rs.10,000/- per month towards interim maintenance to the respondents.

5. From the records, it is clear that the appellant/husband is a doctor and he had admitted in his cross examination that his salary was Rs.60,000/- per month and payslips have been marked as Exs.R3, R9 and R10 to that effect. The appellant himself had admitted in his cross examination that he was willing to give a sum of Rs.10,000/- as interim maintenance. Since the appellant had consented for the interim maintenance, it is not now open to the appellant to challenge the same. Further, when the appellant has a duty to pay interim maintenance during the pendency of the matrimonial proceedings and he has marked his pay slips showing his monthly income, we find no error in the order of the Tribunal. The Tribunal, after considering the evidence in detail and the exhibits marked and after hearing the submissions on both sides ordered interim maintenance of Rs.10,000/-. Further, the appellant has not established before the Family Court that the first respondent/wife has source of income to maintain herself and her child. In the absence of any material to show that the first respondent/wife has means of income to maintain herself, we find that it is the duty of the husband to maintain his wife and child during the pendency of the matrimonial proceedings.

6. In the result, we are not inclined to interfere with the order of the Court below. Accordingly, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, C.M.P.No.5151 of 2016 is also dismissed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sl

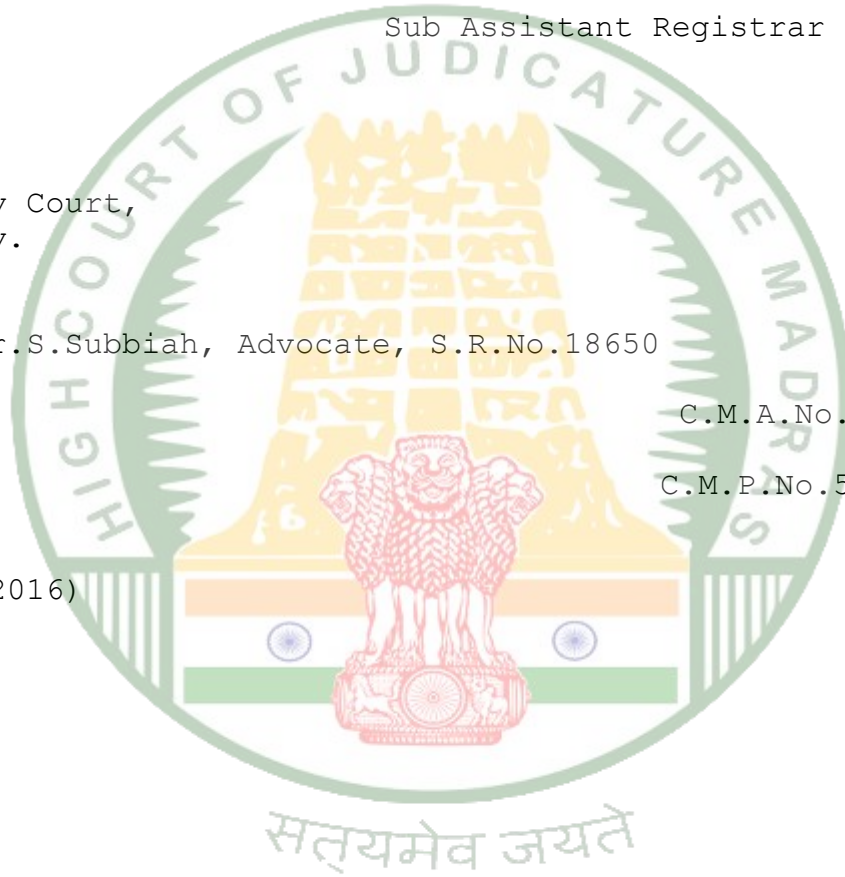
To

The Family Court,
Pondichery.

+1cc to Mr.S.Subbiah, Advocate, S.R.No.18650

C.M.A.No.621 of 2016
and
C.M.P.No.5151 of 2016

NM(CO)
CA(13/04/2016)



WEB COPY