

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.01.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

C.R.P(PD).No.2364 of 2014
and
M.P.Nos.1 of 2014 and 1 of 2015

S.Dhanapal

.. Petitioner

Vs.

Manimegalai

.. Respondent

Prayer:- This Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decretal order dated 04.03.2014 in I.A.No.110 of 2012 in H.M.O.P.No.123 of 2011 on the file of the Sub-Court, Poonamallee.

For Petitioner : Mr.A.Palaniappan
For Respondent : Mr.A.Thamizharasu

ORDER

Civil Revision is filed challenging the impugned order passed

in I.A.No.110 of 2012 in H.M.O.P.No.123 of 2011 on the file of the Sub-Court, Poonamallee, for awarding monthly interim maintenance of Rs.7,500/- per month and Rs.5,000/- as litigation expenses.

2.Learned counsel for the revision petitioner/husband would submit that monthly income of the husband was marked as Ex.R1. At the time of passing award, his monthly income is Rs.45,531/- and on that basis, the trial Court has awarded a sum of Rs.7,500/- per month as interim maintenance to the wife. Now the revision petitioner/husband is retired from service and his monthly pension is only Rs.10,460/-. He would further submit that litigation expense Rs.5,000/- and 50% of the maintenance amount have already been deposited. Therefore, he prayed for reduction of monthly maintenance.

3.Learned counsel for the respondent/wife submits that the revision petitioner has not paid single pie to the wife till today. If the husband has deposited 50% of the maintenance amount, wife may be permitted to withdraw the same. However, the learned counsel submits that the revision petitioner/husband did not maintain either his wife or child for the past 20 years. Therefore, he prayed for

dismissal of the revision.

4.Considered the rival submissions made on both sides and perused the typed set of papers.

5.The revision petitioner/husband has filed an application in H.M.O.P.No.123 of 2011 for divorce on the ground of cruelty and desertion. During pendency of the same, the wife/respondent herein has filed an application in I.A.No.110 of 2012 for interim maintenance and litigation expenses. The trial Court, on considering Ex.R1/salary certificate of the husband, has awarded Rs.7,500/- per month as interim maintenance to the wife. Further, the trial Court has awarded a sum of Rs.5,000/- as litigation expenses, since the husband has forced his wife to face the litigation by filing application for divorce. In my view, litigation expenses as awarded by the trial Court is on lower side. But the respondent/wife has not preferred any revision for enhancement of the same. Therefore, I am inclined to confirm the litigation expenses as awarded by the trial Court.

6.In respect of maintenance amount as awarded by the trial Court is concerned, at the time of passing award, monthly income of

the husband is Rs.45,531/- as per his salary certificate/Ex.R1. On that basis, the trial Court has awarded a sum of Rs.7,500/- as interim maintenance to the wife. So I do not find any merits in this revision to reduce the maintenance amount from the date of filing I.A.No.110 of 2012 till 30.04.2014. Therefore, the revision petitioner ought to have paid a sum of Rs.7,500/- to the wife from the date of petition till 30.04.2014.

7.Now the revision petitioner/husband is retired from service and his monthly pension is Rs.10,460/-, for which, he has filed communication issued by the office of the Principal CDA (Pensions) Allahabad, wherein it was stated that gratuity of the revision petitioner is Rs.6,55,842/- and commutation amount is Rs.4,11,405/-.

8.Considering the aforestated circumstances of the case, I am of the view, the revision petitioner/husband is directed to deposit entire maintenance amount of Rs.7,500/- per month as awarded by the trial Court to the wife from the date of filing I.A.No.110 of 2012 till 30.04.2014 within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the maintenance amount

is reduced from Rs.7,500/- to Rs.5,000/- per month. If the revision petitioner/husband has not paid the maintenance amount of Rs.7,500/- as per the direction of this Court, the original award passed by the trial Court stands hold.

9.Accordingly, the Civil Revision Petition is ordered. The respondent/wife is permitted to withdraw the maintenance amount deposited by the husband after filing appropriate application. At request of learned counsel for the revision petitioner, the trial Court is directed to dispose of H.M.O.P.No.123 of 2011 within a period of six months from the date of payment of entire maintenance amount by the husband. No costs. Consequently, connected Miscellaneous Petitions are closed.

25.01.2016

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Index:Yes/No

To

The Sub-Court, Poonamallee.

R.MALA,J.

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