

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 21.03.2016

CORAM

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

C.M.A. NO. 3185 OF 2014
AND
M.P. NO. 1 OF 2014

M.G.Rajkumar .. Appellant

- Vs -

1. Tmt. Jayapriya
2. Minor Riya .. Respondents

Appeal filed under Section 19 of the Family Court Act, against the fair and decreetal order dated 24.06.2014, passed by the Family Court, Vellore, made IA.NO.76 of 2014 in FCOP No.430 of 2014.

For Appellant : Mr. B.Sundarapandiyan

For Respondents: Mr. P.Mani

JUDGMENT

(DELIVERED BY S.VAIDYANATHAN, J.)

Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents.

2. This appeal has been filed challenging the order dated 24.06.2014 passed by the Family Court, Vellore, granting interim maintenance to the respondents herein, viz., the wife and minor child of the appellant herein.

3. Aggrieved by that portion of the order in and by which the Family Court had granted interim maintenance of Rs.6,000/= and Rs.3,000/= respectively to the wife and minor child, the appellant is before this Court contending that the amount awarded is arbitrary, excessive, unreasonable and is liable to be interfered with.

4. Learned counsel appearing for the appellant/husband contended that the Family Court, based on the statement made by the first respondent/wife to the effect that the appellant was working as a software engineer and earning a sum of Rs.50,000/= per month as salary, has awarded the interim maintenance as above, though no documentary evidence has been adduced to substantiate the same. It is the further submission of the learned counsel for the appellant/husband that the first respondent is a post-graduate in M.Sc., M.Phil. and is gainfully employed and is earning a sum of Rs.25,000/= per month and, therefore, the award of interim maintenance to the wife as above cannot be sustained. However, insofar as the interim maintenance awarded to the second respondent/child, the learned counsel for the appellant has no grievance.

5. Per contra, learned counsel appearing for the first respondent/wife, drew the attention of this Court to the averments made by the appellant/husband in the petition filed under the Guardian and Wards Act as well as in the divorce petition wherein the appellant/husband himself has admitted that he belongs to an affluent family and that he is a man of means and that he is working as a software engineer and, therefore, the present stand taken by the appellant/husband that the earning as projected by the first respondent/wife has not been proved by documentary evidence, per se, cannot be accepted. Further, it is submitted by the learned counsel for the first respondent/wife that she is not employed anywhere and, therefore, it is the duty of the appellant/husband to maintain her.

6. This Court has considered the rival contentions advanced by the learned counsel on either side and perused the materials available on record as also the order passed by the Court below.

7. As has been rightly observed by the Family Court, it is duty of the appellant, who is the husband of the first respondent and the father of the second respondent to take care of his wife and child. Though it is contended by the learned counsel for the appellant/husband that the first respondent is qualified and is gainfully employed, the same has not been substantiated by any material document, which is evident from the order of interim maintenance passed by the court below. Similarly, no documentary evidence has been produced by the first respondent/wife to substantiate her claim that the appellant/husband is earning around Rs.50,000/=.

8. Be that as it may. For the purpose of resolving the issue on hand, pending the main issue, viz., petition for dissolution of marriage filed by the appellant/husband and the petition for restitution of conjugal rights filed by the first respondent/wife, taking into considerations the contentions

advanced by the learned counsel on either side and also the age of the child, the status of the appellant/husband as is evident from the averments in the petition filed by the appellant/husband before the Family Court and the need of the appellant/husband to maintain his wife, this Court is inclined to modify the interim order of maintenance as under :-

"a) The order of interim maintenance in a sum of Rs.3,000/= per month awarded to the second respondent/child stands confirmed;

b) This Court awards an interim maintenance of Rs.4,500/= to the first respondent/wife in lieu of Rs.6,000/= awarded by the Family Court, Vellore."

9. Accordingly, this Civil Miscellaneous Appeal is disposed of with the modification in the interim maintenance as above. As prayed for by the learned counsel on either side, the Family Court is directed to dispose of the matter as expeditiously as possible. It is further made clear that under no circumstances the proceedings shall be adjourned beyond two consecutive working days at any point of time, subject to the convenience of the parties to the dispute.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

GLN
To
The Family Court
Vellore.

+1cc to Mr.B. Sundarapandiyan, Advocate, S.R.No.17920
+1cc to Mr.P. Mani, Advocate, S.R.No.17853

SVI (CO)
EU (7/04/2016)

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