

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1416 of 2016

and

Crl.M.P.No.12376 of 2016

D. Thangavelu

... Petitioner

vs.

1. T.Sumathi

2. Jawahar Prasad

3. Minor Raghunathan @ Yashwanth

... Respondents

Criminal Revision filed under Section 397 and 401 Cr.P.C. to set aside the order dated 21.07.2016 passed by the learned Principal Family court Judge, Coimbatore in C.M.P.No.57 of 2014 in M.C.No.56 of 2006 which allowed that petition in part and directed the Petitioner herein to pay a sum of Rs.3,500/- per month each to the 2nd and 3rd Respondents.

For Petitioner : Mr.M.Velmurugan

O R D E R

This revision challenges the order of learned Principal Family Judge, Coimbatore, passed in C.M.P.No.57 of 2014 in M.C.No.56 of 2006.

2. The first respondent/wife moved M.C.No.56 of 2006 on the file of the Principal Family Judge, Coimbatore, seeking maintenance for the respondents 2 and 3. The trial court, ordered maintenance of Rs.750/- each to the respondents 2 and 3 payable by the petitioner herein. Thereafter the respondents filed C.M.P.No.57 of 2014 in M.C.No.56 of 2006 to enhance the maintenance awarded to the respondents 2 and 3 from Rs.750/- to Rs.15,000/-each per month.(Totally Rs.30,000/-). The trial court partly allowed the petition and directed the petitioner to pay a sum of Rs.3,500/-p.m. to the respondents 2 and 3 (totally Rs.7000/-). Against such finding, the revision has been filed.

3. Heard Mr.M.Velmurugan, learned counsel for petitioner.

4. The Court below has observed though the respondents 2 and 3 were given 2/3rd right in property covered under Ex.P.6 partition deed and also obtained a preliminary decree they were

not allowed to enjoy their right in the property in view of the act of the petitioner executing a settlement deed in favour of his father to defeat the right of his minor sons. On the other hand the properties were in the hands of the petitioner and his contentions of their being in possession of his father could not be accepted. When the petitioner himself has created a fetter against respondents 2 and 3 enjoying their shares, he could not contend that right was given to the respondents 2 and 3 in property and as such they cannot claim enhanced maintenance from him. Thus the objection raised by the petitioner that respondents 2 and 3 are not entitled for enhancement of maintenance by Ex.P7 and P.8 was held unsustainable. First respondent/wife has not claimed maintenance. In enhancing of maintenance payable to the children/respondents 2 and 3, Court below has, against respondents contention of petitioner earning Rs.1,25,000/- per month, taken into account the sale of property by petitioner, his holding properties, factored in injury suffered by him and fixed income of petitioner notionally at Rs.20,000/- per month. We find no reason to interfere.

5. In the result, this Criminal Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrp
To

The Principal Judge,
Family Court,
Coimbatore.

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