

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NO.1682 OF 2016

T.Dharmalingam

... Petitioner

Versus

M.Malathi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 21.01.2016 made in I.A.No.54 of 2014 in H.M.O.P.No.80 of 2014 on the file of the Subordinate Court, Gudiyattam, Vellore District.

For Petitioner : Mr.N.Manokaran

For Respondent : No appearance

ORDER

The respondent initiated a matrimonial proceedings in H.M.O.P.No.80 of 2014, against the petitioner, before the Subordinate Court at Gudiyattam, praying for a decree of divorce.

2. In the said matrimonial proceedings, the petitioner filed an application in I.A.No.54 of 2014 claiming interim maintenance at the rate of Rs.20,000/- per month. The learned Trial Judge considered the case of the petitioner in the light of the counter filed by the respondent and awarded a sum of Rs.5,000/- per month. The said order is under challenge in this Civil Revision Petition.

3. The learned counsel for the petitioner contended that the Trial Court arrived at a factual finding with regard to the amount spent by the petitioner to bring up the family. According to the learned counsel, the respondent is employed as a High School Teacher earning about Rs.60,000/- per month. The Trial Court notwithstanding the evidence produced by the petitioner and the admission made by the respondent, failed to award appropriate amount as maintenance.

4. None appears for the respondent.

5. The matrimonial proceedings in question was instituted by none other than the respondent. The petitioner filed the application in I.A.No.54 of 2014 to direct the respondent to pay maintenance at the rate of Rs.20,000/- per month pending disposal of the Original Petition.

6. Before the Trial Court, the petitioner contended that the respondent is employed as a Teacher in a Government High School at Gudiyattam and she is earning a sum of Rs.60,000/- per month. The counter filed by the respondent does not contain any indication that she disputed the salary as indicated in the claim petition. Even otherwise, the Court can take judicial notice with regard to the salary earned by a High School Teacher. The petitioner has produced acceptable materials before the Trial Court in respect of the contention that he is not having the means for his maintenance and the respondent is having sufficient amount at her disposal to give him maintenance. The learned Trial Judge without considering the poor financial condition of the petitioner and the monetary condition of the respondent simply awarded a sum of Rs.5,000/- per month.

7. After hearing the learned counsel for the petitioner and on perusal of the documents available on record, I am of the view that the learned Trial Judge was not correct in fixing the quantum at Rs.5,000/- per month.

8. In the result, the order dated 21.01.2016 is set aside. The respondent is directed to pay a sum of Rs.10,000/- per month as

maintenance to the petitioner, in modification of the award passed by the Trial Court. The petitioner is entitled to the amount from the date of initiation of the application in I.A.No.54 of 2014.

9. The Civil Revision Petition is allowed to the extent indicated above. No costs.

22.11.2016

TK

To

The Subordinate Court
Gudiyattam,
Vellore District.

K.K.SASIDHARAN, J.

TK

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