

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

CRP (NPD)No.2926 of 2010

and

M.P.No.1 of 2010

R.Kumaresan

.. Petitioner

Vs

R.Kavitha

.. Respondent

Prayer:Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Final order dated 20.04.2010 made in I.A.No.38 of 2008 in H.M.C.M.A.No.10 of 2007 on the file of the District and Sessions Judge, Vellore by ordering petition filed under Section 151 C.P.C., directing this petitioner to pay interim maintenance of Rs.1,500/-.

For Petitioner : Mr.K.Umar

For Respondent : Mr.R.Sasikumar

ORDER

The Civil Revision Petition is filed against the Fair and Final order dated 20.04.2010 made in I.A.No.38 of 2008 in H.M.C.M.A.No.10 of 2007 on the file of the District and Sessions Court, Vellore by ordering petition filed under Section 151 C.P.C., directing this petitioner to pay

interim maintenance of Rs.1,500/-.

2.The case of the petitioner is that the petitioner filed HMOP.No.32 of 2006 before the Subordinate Court, Tirupattur, seeking for the grant of divorce. After contest, the trial Court was granted Decree of divorce on 28.09.2007 dissolving the marriage dated 20.08.2004 consummated between the petitioner and the respondent. The respondent had filed Application for the grant of interim maintenance in the said Divorce proceedings. The trial Court was ordered to pay a sum of Rs.750/- per month to the respondent. With great difficulty, he had paid the above said monthly maintenance to the respondent till the finalisation of the HMOP.No.32 of 2006. The trial Court decreed the above matter and against the above said Decree, the respondent filed the H.M.C.M.A.No.10 of 2007 before the District and Sessions Court, Vellore on 05.11.2007, but the respondent had filed petition in I.A.No.38 of 2008 on 17.06.2008 i.e. after 7 months of filing Appeal particularly after he had submitted his readiness for argument. In order to drag on the proceedings the petitioner has filed the petition for the grant of interim maintenance and also for litigation expenses. As per the direction of the District Court, dated 07.11.2009, the petitioner had paid Rs.750/- per month till 03.12.2009 from the date of filing the application by the respondent.

3.The petitioner has further submits that he had adduced oral evidence of two witnesses and the respondent had not adduced any evidence. But, the District Court vide order dated 20.04.2010 directed to pay Rs.1,500/- per month as interim maintenance and Rs.10,000/- as litigation expenses. The petitioner living with meagre income, which he derive from the coolie work and he shouldered with the responsibility to take care of his aged mother and unmarried sister. The petitioner struggling a lot for maintain himself and his dependants. Whereas the respondent is working in a Computer centre and earning more than Rs.3,000/- per month. With great difficulty, the petitioner had paid a sum of Rs.14,250/- towards the interim maintenance as ordered by the trial Court, till 17.01.2010. He had borrowed the above said sum for heavy interest and he had over burden by the above said loan. The petitioner further submits that without following his evidence and without considering his condition, the trial Court had directed to pay the above said sum of Rs.1,500/- per month and Rs.10,000/- towards the litigation expenses. The order of the trial Court got to be set aside for the above said reasons as otherwise, he will be put to irreparable loss and hardship. Further, the petitioner prays this Court to pass order granting interim stay of all further proceedings in H.M.C.M.A.No.10 of 2007 pending on the file of District-cum-Sessions Court, Vellore as otherwise he will be put to irreparable loss and hardship which cannot be compensated in money value. Hence, the petitioner filed this civil revision petition.

4.The respondent/petitioner filed an application in I.A.No.38 of 2008 in H.M.C.M.A.No.10 of 2007 before the Principal District Court, Vellore, where an order was passed against the petitioner/respondent on 20.04.2010.

5.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

6.It is admitted fact that the petitioner is the husband and the respondent is wife. Admittedly, the petitioner has filed divorce petition in H.M.O.P.No.32 of 2006, on the file of the Subordinate Court, Tirupattur, the same was decreed in favour of the petitioner. Against the said decree, the respondent has filed an appeal in H.M.C.M.A.No.10 of 2007 before the learned District and Sessions Court, Vellore.

7.While pending of the above appeal, the respondent has filed an Interlocutory Application in I.A.No.38 of 2008 seeking interim maintenance at the rate of Rs.1,500/- per month and directed to pay litigation expenses for a sum of Rs.10,000/-. The said application was allowed in favour of the respondent / wife, against which this present civil revision petition is filed before this Court.

8. Being the husband of the respondent, it is bounden duty of the petitioner to pay the maintenance to the respondent and the order of the learned District and Sessions Judge, Vellore is correct. But, the petitioner / husband, who is working in a printing press and receiving minimum amount as salary. Considering the nature of his work, I am inclined to modify the order of the District and Sessions Judge, Vellore, passed in I.A.No.38 of 2008 in H.M.C.M.A.No.10 of 2007 dated 20.04.2010 from Rs.1,500/- per month to Rs.1,000/- per month.

9. Accordingly, I am inclined to pass the following orders:

(a) the order in I.A.No.38 of 2008 in H.M.C.M.A.No.10 of 2007 dated 20.04.2010 modified and directing the revision petitioner to pay a sum of Rs.1,000/- per month from the date of petition i.e. 17.06.2008 and also directed to pay a sum of Rs.5,000/- towards litigation expenses;

(b) the petitioner shall pay the arrears of maintenance payable to the respondent at the rate of Rs.1,000/- per month from the date of petition within a period of four weeks from the date of receipt of a copy of this order. Thereafter, he shall continue to pay the maintenance of a sum of Rs.1,000/- per month till the disposal of H.M.C.M.A.No.10 of 2007, pending on the file of the District and Sessions Judge, Vellore.

10.In the result, the civil revision petition is modified to the above extent. No costs. Consequently, connected miscellaneous petition is closed.

23.06.2016

vs

Index: Yes/No.
Internet: Yes/No.

Note:Issue order copy on 02.08.2016

To

The District and Sessions Court,
Vellore.

M.V.MURALIDARAN.J.,

VS

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