

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2016

CORAM:

THE HON'BLE MR.JUSTICE **K.K. SASIDHARAN**

CRP (PD) No.2621 of 2016
and CMP. No.13524 of 2016

1. S.Satya
2. Monica
3. Shamili

.. Petitioners

Vs.

V.Santhanam

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.1303 of 2016 in O.S.No.106 of 1999 dated 11.07.2016 on the file of II Additional Principal Judge, Family Court at Chennai.

For Petitioners : Mr.V.Manohar

For Respondent : No Appearance

ORDER

This Civil Revision Petition is directed against the order dated 11.07.2016 in I.A.No.1303 of 2016 in O.S.No.106 of 1999, whereby and where under the learned Second Additional Principal Judge, Family Court, Chennai, dismissed the application filed by the petitioners, for the purpose of summoning certain records from the police Department.

2.The petitioners filed a suit in O.S.No.106 of 1999 against the respondent praying for maintenance. In the said suit, the petitioners filed an application to call for certain documents for the purpose of fixing the last drawn salary of the respondent. The Trial Court dismissed the application on the ground that the salary slip is not a material document to decide the quantum of maintenance.

3.The learned counsel for the petitioners contended that it was only to fix the maintenance amount, the last drawn salary slip of the respondent was sought to be summoned. The trial Court has to fix the

maintenance amount taking into account the salary received by the respondent just before his retirement. The learned trial Judge has erroneously dismissed the application with an observation that it is for the Court to fix the maintenance amount.

4.The petitioners filed the application calling for the records relating to the last drawn salary of the respondent from the Office of the SSB (SB-CID), Tamil Nadu Police Head Quarters, Chennai. Since, the petitioners are the applicants in I.A.No.1303 of 2016, it is for them to plead and prove that the respondent was getting sufficient salary to pay the maintenance.

5.The learned trial Judge even before summoning the documents and perusing the same, passed an order to the effect that even if the document is produced before the Court, it would not improve the case of the petitioners. I am not in a position to agree to the views expressed by the learned trial Judge.

6.The petitioners wanted a particular amount to be fixed as maintenance taking into account the last drawn salary of the respondent. When such a petition is filed, it is not for the learned trial Judge to come to an abrupt conclusion that the application is filed only to drag on the proceedings. There should be materials before the Court to fix the maintenance amount. It was only for the purpose of proving that the respondent is receiving salary at a particular rate, the petitioners filed the application to call for the last drawn salary slip. The trial Court was therefore, not right in dismissing the application.

7.In the result, the order dated 11.07.2016 in I.A.No.1303 of 2016 in O.S.No.106/1999 is set aside. The application in I.A.No.1303 of 2016 is allowed as prayed for.

8.The Civil Revision Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

04.10.2016

Index:Yes/No
jbm

To

The II Additional Principal Judge,
Family Court at Chennai.

K.K.SASIDHARAN, J.

jbm

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