

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.2734 of 2016

Krithiga

...Petitioner

vs.

Praveen Kumar

...Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 04.01.2016 passed by the Principal Subordinate Judge, Cuddalore in I.A.No.116 of 2013 in H.M.O.P.No.80 of 2013.

For Petitioner : Ms.Rekha Kumari

ORDER

The respondent filed H.M.O.P.No.80 of 2013 before the Principal Subordinate Judge, Cuddalore praying for a decree of divorce. In the said H.M.O.P., the petitioner filed an application in I.A.No.116 of 2013 claiming maintenance.

2. The learned Trial Judge granted a sum of Rs.5,000/- as maintenance to the minor child. However, the request for giving maintenance to the petitioner was negatived. The order is under challenge.

3. Heard the learned counsel for the petitioner. None appears on behalf of the respondent in spite of printing his name in the cause list.

4. The petitioner filed I.A.No.116 of 2013 claiming maintenance for herself and her minor child. The learned Trial Judge found that the respondent was well employed as Head-Tech in Infosys at Bangalore. His monthly salary was fixed as Rs.64,100/- as per Ex.R1. Thereafter, the learned Trial Judge observed that the petitioner is undergoing her M.D.S. course and as such, she is not entitled to any amount by way of maintenance.

5. I am not in a position to understand the logic behind the observation that being a student of Dental Science, the petitioner is not entitled to maintenance. When it is found that the petitioner is not having independent source of income to maintain herself, the respondent is bound to pay her maintenance. The learned Trial Judge was not right in rejecting the plea made by the petitioner for maintenance.

6. I am therefore of the view that the impugned order rejecting the claim made by the petitioner for maintenance, requires to be set aside. In the result, the impugned order is set aside in part.

7. The application in I.A.No.116 of 2013 shall be taken up by the learned Principal Subordinate Judge, Cuddalore for further hearing to fix the maintenance payable to the petitioner, in view of the finding that the petitioner is entitled to maintenance. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

8. The Civil Revision Petition is allowed to the extent indicated above. No costs. Consequently, connected C.M.P.No.14051 of 2016 is closed.

20.10.2016

Index:Yes/No

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To
The Principal District Munsif Court, Gingee.

K.K.SASIDHARAN,J.

(aeb)

C.R.P.(PD) No.2734 of 2016

20.10.2016

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