

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-12-2016

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.2757 of 2016
& C.M.P.No.14143 of 2016

Vinoth Kumar

.. Petitioner

Vs.

Kalaifarasi

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India praying against the fair and decretal order dated 05.03.2016 in I.A.No.14 of 2016 in H.M.O.P.No.32 of 2015 on the file of the Sub-Court, Mannargudi.

For petitioner : Mr.S.V.Karthikeyan

For respondent : No appearance

ORDER

The Civil Revision Petition is filed by the husband challenging the grant of interim maintenance to the respondent-wife by the revision petitioner-husband, who had filed H.M.O.P.No.32 of 2015 for restitution of conjugal rights. The application was allowed granting interim maintenance in a sum of Rs.4,500/- per month against the claim of Rs.5,000/- in the application.

2. Learned counsel for the revision petitioner-husband states that, earlier, I.A.No.69 of 2015 was filed by the respondent/wife claiming maintenance under Section 24 of the Hindu Marriage Act. After contest, when the order was about to

be pronounced, the application was withdrawn by the respondent-wife and thereafter, she has filed the present application in I.A.No.14 of 2016 seeking the very same relief of interim maintenance. When the revision petitioner-husband is willing to live with the respondent-wife and has also filed an application for restitution of conjugal rights, the respondent-wife, unless establishes sufficient reasons for staying away from the society of her husband, is not entitled for maintenance. It is also not known as to why the previous application was withdrawn by her and the second application is filed for the very same relief. The conduct of the respondent-wife only shows her intention to drag on the proceedings.

3. Despite service of notice, the respondent-wife has not entered appearance either in person or through counsel.

4. It is also stated by the learned counsel for the petitioner that the respondent-wife is capable of taking care of herself, as she is working in a private nursing home and earning sufficiently to maintain herself.

5. In the light of the above facts, the application filed by the respondent-wife in I.A.No.14 of 2016 is not maintainable and the same is accordingly dismissed. Consequently, the Civil Revision Petition is allowed, setting aside the impugned order, dated 05.03.2016 passed in I.A.No.14 of 2016. No costs. Consequently, C.M.P. is closed.

09-12-2016

Copy to

The Subordinate Judge, Mannargudi.

PUSHPA SATHYANARAYANA, J

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