

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NO.42 OF 2016
AND CMP NO.244 OF 2016

P.Madheswaran

... Petitioner

Versus

M.Nithya

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 20.08.2015 in I.A.No.78 of 2015 passed by the Subordinate Judge, Tiruchengode.

For Petitioner : Mr.S.Senthil Kumaran
for M/s.Indus Legal Aid Associates

For Respondent : Mr.K.S.Kumar

ORDER

The petitioner filed an application before the Sub-Court, Tiruchengode, in I.A.No.78 of 2015, to withdraw the Original Petition in H.M.O.P.No.70 of 2013. The learned Subordinate Judge, while

permitting the petitioner to withdraw the matrimonial proceedings indicated that even after the dismissal of the main petition, the interlocutory application filed by the respondent under Section 24 of the Hindu Marriage Act, 1955, would continue. Feeling aggrieved, the petitioner has come up with this transfer petition.

2. The learned counsel for the petitioner submitted that the learned Judge was not correct in making an observation to continue the interlocutory application filed under Section 24 of the Act, notwithstanding the dismissal of the substantive matrimonial proceedings. The direction to continue the proceedings is therefore liable to be set aside.

3. The learned counsel for the respondent on the other hand submitted that the respondent claimed a sum of Rs.30,000/- by way of interim maintenance. It was only for collecting the said amount, request was made before the Trial Court not to dispose of the interlocutory application filed under Section 24 of the Act.

4. The petitioner has agreed to pay a sum of Rs.30,000/- to the respondent taking into account the contention taken by the learned

counsel for the respondent that it is for claiming the maintenance amount at the rate of Rs.30,000/-, the respondent wanted the proceedings under Section 24 of the Hindu Marriage Act, 1955 to be continued.

5. In view of the aforesaid submission made on behalf of the petitioner, nothing survives for adjudication.

6. The question of law raised with regard to the legality and correctness of the proceedings under Section 24 of the Act, even after not pressing the divorce petition by the husband is left open to be decided in an appropriate proceedings.

7. I also make it clear that the disposal of this Civil Revision Petition would not amount to concurrence of the view expressed by the learned Trial Judge that the petition under Section 24 of the Act would be maintainable even after the closure of the substantial proceedings.

8. The petitioner is directed to pay the amount to the respondent within a period of three weeks from today.

9. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected civil miscellaneous petition is closed.

07.11.2016

TK

K.K.SASIDHARAN, J.

TK

To

The Sub Court
Tiruchengode.

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