

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

C.R.P. (PD) NO.697 OF 2016
AND CMP NO.3575 OF 2016

Yathi alias Narasimhan

... Petitioner

Vs.

Durgadevi

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 12.01.2016 passed in I.A.No.950 of 2014 in O.P.No.3088 of 2013 by the Principal Judge, Family Court, Chennai.

For Petitioner	:	Ms.S.Deepika
For Respondent	:	Mr.J.Antony Jesus

ORDER

The petitioner filed an Original Petition in O.P.No.3088 of 2013, before the Principal Judge, Family Court, Chennai, praying for a decree of divorce.

2. In the said Original Petition, the respondent filed an application, in I.A.No.950 of 2014, claiming interim maintenance. The learned Trial Judge allowed the application and directed the petitioner to pay a sum of Rs.10,000/- (Rupees Ten thousand only) per month towards maintenance. Feeling aggrieved, the petitioner is before this Court.

3. The learned counsel for the petitioner contended that the petitioner is getting a net salary of Rs.11,500/- per month, and as such, the Trial Court was not correct in granting maintenance, at the rate of Rs.10,000/- per month.

4. The learned counsel for the respondent made submissions justifying the interim order of maintenance. According to the learned counsel, the petitioner is an employee of Southern Railway, and as such, the Trial Court was perfectly correct in fixing the quantum.

5. The order passed by the Trial Court indicates that neither the petitioner nor the respondent produced the salary certificate of the petitioner to prove the contention that the petitioner is receiving a particular amount by way of salary. The Trial Court simply fixed a sum of Rs.10,000/- per month, without arriving at a factual finding, with regard

to the actual salary received by the petitioner. The order passed by the learned Trial Judge does not contain any reason, much less, justifiable reason, for fixing the quantum. I am therefore of the view that the matter requires fresh consideration.

6. In the result, the order dated 12.01.2016 in I.A.No.950 of 2014 in O.P.No.3088 of 2013 is set aside. The application in I.A.No.950 of 2014 in O.P.No.3088 of 2013, is restored to file.

7. It is open to the petitioner and the respondent to produce documents, to substantiate their respective contentions.

8. There shall be a direction to the petitioner to produce the salary slip, for the period from January 2016 to October 2016, so as to enable the learned Trial Judge, to arrive at a finding, with regard to the capacity of the petitioner, to pay the maintenance, at a particular rate. The learned Trial Judge, shall also take into consideration the grievance projected by the respondent. Such exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

9. The Civil Revision Petition is allowed to the extent

indicated above. No costs. Consequently, connected civil miscellaneous petition is closed.

03.11.2016

Index : Yes/No
Internet : Yes/No
TK

To

The Principal Judge
Family Court
Chennai.

K.K.SASIDHARAN, J.

TK

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