



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2016

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
and
THE HONOURABLE MRS. JUSTICE J. NISHA BANU

C.M.A. (MD) No. 1132 of 2016
and
C.M.P (MD) No. 10201 of 2016

V. Kathirvel ... Appellant/Respondent/Petitioner

Vs.

Suganya ... Respondent/Petitioner/Respondent

PRAYER: The Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act against the fair and decreetal order dated 28.03.2016 passed in I.A.No.707 of 2015 in H.M.O.P.No. 4 of 2015 by the learned Family Court, Madurai.

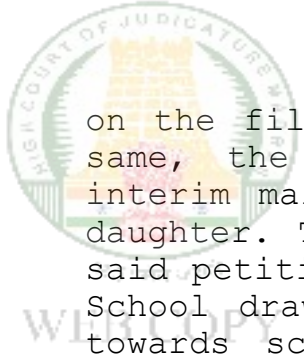
For Appellant : Mr.K.Kumaravel
For Respondent: Mr.K.K.Ramakrishnan

J U D G E M E N T

[Order of the Court was made by M. SATHYANARAYANAN, J.]

By consent, this Civil Miscellaneous Appeal is taken up for final disposal. The appellant is the husband of the respondent. According to him, the marriage between him and the respondent was solemnized on 03.06.2007 as per Hindu rights at Madurai. During marriage, he was employed as Branch In-charge Integrated Stock Broking Services (P) Ltd., Trichy and the respondent was unemployed and at present, he was working as Guest Lecturer in Government Arts College, Melur. The appellant would further submit that out of the wedlock, a girl child by name Lakshya was born on 02.06.2008 and would further submit that the respondent ill-treated him and she also left the matrimonial home and the appellant filed H.M.O.P.No.222 of 2009 seeking restitution of conjugal rights and the respondent filed a counter. Subsequently, the said petition was dismissed for default.

2. The appellant was unable to bear with the torture and cruelty at the hands of the respondent and he has filed H.M.O.P.No. 4 of 2015 under Section 13(i)(ia) of Hindu Marriage Act for divorce



on the file of the Family Court, Madurai. Pending disposal of the same, the respondent has filed I.A.No.707 of 2015 praying for interim maintenance at Rs.10,000/- each for her and for her minor daughter. The respondent, in the affidavit filed in support of the said petition, would aver that she is working as Teacher in Private School drawing Rs.23,000/- out of which, she has paid Rs.22,800/- towards school fees and also paid Rs.2,250/- for transportation charges and she has paid Rs.8,000/- for her extra-curricular activities. Since she has no means to pay the same, she had prayed for interim relief. The appellant has filed a counter stating that he is working as Guest Lecturer in Government Arts College, Melur and drawing consolidated pay of Rs.10,000/- per month and he is only eligible for salary for working days and when he applies for leave, he is not eligible to get salary for that days. Further, he would add that since his wife is employed as Teacher, she is not entitled to claim maintenance and prayed for dismissal of the maintenance application.

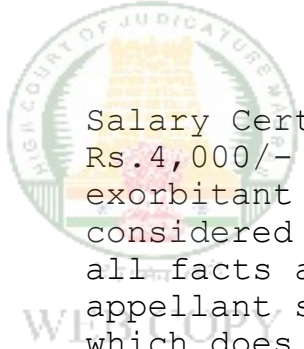
3. The Family Court, Madurai, taking note of the materials placed before the Court, has passed the interim order dated 28.03.2016 directing the appellant to pay a sum of Rs.4,000/- per month to the respondent towards interim maintenance to maintain her and her minor daughter. Challenging the legality of the same, this Civil Miscellaneous Appeal is filed before this Court.

4. The learned counsel for the appellant would submit that admittedly, the appellant is working as a Guest Lecturer in Government Arts College and earning a meagre sum of Rs.10,000/- per month and therefore, it is difficult for him to maintain himself and would further add that in any event a sum of Rs.4000/- per month is very much exorbitant and prays for setting aside the said order.

5. Per contra, Mr.K.K.Ramakrishnan, learned counsel for the respondent/wife would submit that even in the affidavit filed in support of the Interlocutory Application, it is mentioned that the respondent is earning salary of Rs.23,000/- per month and the salary is not sufficient to meet out her household needs and to maintain her school going children to pay fees and meet medical expenses etc. Further, in that petition relationship as well as the marriage has been admitted and the appellant, as a dutiful husband father, is liable to maintain the respondent as well as the child and the expenses for the child should be taken care of by her father and prays for dismissal of this appeal.

6. This Court considered the submissions and perused the typed set of documents placed on record.

7. In the affidavit filed in support of I.A.No.707 of 2015 in paragraph Nos.3 and 4, the respondent has given details and expenses incurred for maintaining herself and her daughter. Though the appellant, as respondent, has contended that he is employed as Guest Lecturer and earning Rs.10,000/- per month, has not filed



Salary Certificate to substantiate the same. Even otherwise a sum of Rs.4,000/- by way of interim maintenance cannot said to be exorbitant in the light of inflation and also cost of living. In the considered view of this Court, the Family Court has taken note of all facts and surrounding circumstances and rightly ordered that the appellant shall pay a sum of Rs.4,000/- towards interim maintenance, which does not warrant interference by this Court.

8. In the result, the Civil Miscellaneous Appeal is dismissed. The order dated 28.03.2016 in I.A.No.707 of 2015 in H.M.O.P.NO.4 of 2015 passed by the Family Court, Madurai, is confirmed. However, in the facts of the case, there shall be no order as to costs. Consequently, C.M.P.(MD) No.10201 of 2016 is also dismissed. Since H.M.O.P is of the year 2015, the Family Court, Madurai, is directed to dispose of the same as expeditiously as possible.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Judge,
Family Court,
Madurai.

+ 1 CC TO Mr.K.K.RAMAKRISHNAN, ADVOCATE IN SR No. 65192
+ 1 CC TO M/S.M.DHANALAKSHMI, ADVOCATE IN SR No. 65260

CM
TE/PV : 29/11/2016 : 3P/4C

C.M.A. (MD) No.1132 of 2016
and C.M.P. (MD) No.10201 of 2016
03.11.2016