



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO

and

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Civil Miscellaneous Appeal (MD) No.791 of 2016

and

C.M.P (MD) No.7647 of 2016

S.Panneerselvam

... Appellant/1st Respondent

Vs.

1.P.Rajalakshmi

... Respondent/Petitioner

2.The Vivekanandar College,
Rep by its Principal,
Thiruvudagam,
Madurai District.

... 2nd Respondent/Respondent

Appeal filed under Section 19(1) of the Family Courts Act, 1984, against the order passed by the learned Judge, Family Court, Madurai in I.A.No.57 of 2016, in O.S.No.4 of 2016, dated 22.03.2016.

For Petitioner

: Mr.K.Anandan

For 1st Respondent

: Mr.M.Prabhu for
M/s.Polax Legal Solution

JUDGMENT

(Judgment of the Court was delivered by **NOOTY.RAMAMOHANA RAO,J**)

We are plainly at a loss to understand as to the reasons why the learned Judge, Family Court, Madurai directed disbursement only 60% of the terminal benefits to the appellant who is the defendant in O.S.No.4 of 2016. The said Original Suit is filed by the respondent-wife seeking maintenance.

2.Under Section 60 of the Code of Civil Procedure, 1908, terminal benefits such as pension, provident fund, and gratuity amount are incapable of being attached even in the matter of execution of a decree. Therefore, what could not have been achieved directly cannot be allowed to be achieved indirectly by any party. We have therefore no hesitation to set aside the order of the learned Judge dated 22.03.2016 in I.A.No.57 of 2016 in O.S.No.4 of 2016. But however, it is a fundamental obligation of the appellant herein to maintain the respondent/wife. She is entitled to lead a reasonably dignified life in keeping with the status of the appellant herein itself. Therefore, taking an overall view of the facts and circumstances of the case, we are of the opinion that the appellant shall deposit a sum not less than Rs.5,000/- commencing from the month of July 2016 and thereafter, deposit the said amount on or before 7th day of every succeeding month into a saving bank account maintained by the respondent/wife, the details of which will be furnished in the form of a memo to the learned counsel for the appellant by the learned counsel for the respondent who



has accepted notice in this matter. Any default committed by the appellant in making the deposit as suggested above for two consecutive months, the appellant will have to deposit the entire terminal benefits in a separate account maintained in any of the nationalised banks so that the same can be considered for apportionment by the Family Court while dealing with O.S.No.4 of 2016. We hope and trust that O.S.No.4 of 2016 will be taken up for consideration on its merits, without in any manner being influenced by what has been observed by us for the purpose of disposal of this case.

3.The Civil Miscellaneous Appeal is disposed of in the above terms. No costs. Consequently, C.M.P(MD)No.7647 of 2016 is closed.

Sd/

Assistant Registrar(CS-I)

/TRUE COPY/

Sub Assistant Registrar(CS-I)

To

The Judge,
Family Court, Madurai.

+1cc to M/S.K.Anandan, Advocate in SR.No.43636

+1cc to M/S.Polax Legal Solutions, Advocate in SR.No.43749

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sms

PA/SS-3/SAR I/23.08.2016/2P/4C