



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 05.12.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
C.R.P (MD) No.2482 of 2016 (PD)
and
C.M.P (MD) No.11704 of 2016

K.Karthik .. Petitioner/Respondent/Petitioner

Vs.

1.Muthuselvi ..R1/R1/ Respondent

2.Minor.Kamaleswaran
Minor respondant rep. Through
his mother and guardian
namely Muthuselvi ..2nd Respondent/
2nd petitioner/3rd party

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to set aside the order, dated 28.06.2016 passed in I.A.No.25 of 2015, in H.M.O.P.No.1 of 2015 on the file of the Additional Sub Court, Tirunelveli by allowing this Civil Revision Petition.

For Petitioner : Mr.P.Senthur Pandian

ORDER

The petitioner has filed this Civil Revision Petition to set aside the order, dated 28.06.2016 passed in I.A.No.25 of 2015, in H.M.O.P.No.1 of 2015 on the file of the Additional Sub Court, Tirunelveli.

2.The petitioner is the respondent in I.A.No.25 of 2015 and petitioner in H.M.O.P.No.1 of 2015 on the file of the Additional Sub Court, Tirunelveli. The first respondent is the second in I.A.No.25/2015 and first petitioner and respondent in H.M.O.P.No.1 of 2015. The second respondent is the first petitioner in IA.No.25/2015 and third party to the H.M.O.P.No.1 of 2015. The petitioner filed a petition for divorce against the first respondent on the ground of adultery. In the said H.M.O.P., the respondents 1 and 2 filed I.A.No.25 of 2015 claiming interim maintenance of Rs.7,500/- for the second respondent. The first respondent stated that she has filed a separate petition claiming a sum of Rs.20,000/- and Rs.10,000/- towards litigation expenses.

3. According to respondents, the petitioner is carrying on travels business and he is earning Rs.30,000/- per month and also getting Rs.20,000/- as agricultural income.

4. The petitioner filed counter statement in the I.A., and denied the averments made in the petition and submitted that the first respondent has already filed M.C.No.10 of 2014, before the Judicial Magistrate, Sankarankovil for maintenance. Suppressing the pendency of the maintenance case, the respondents filed I.A.No.25 of 2015 for interim maintenance and she also filed another petition for claiming maintenance for herself. The petitioner is not earning Rs.30,000/- in the travels business and he is not carried any business and he has not having any agricultural land also. He is living with his mother depending on the pension of his mother. The petitioner also submitted that the first respondent has filed various cases against the petitioner to harass him. Due to that, the father of the petitioner died. In view of mental agony and torture by the first respondent, he is not carrying any business.

5. No oral and documentary evidence was let in before the court below.

6. The learned Judge considering the affidavit and counter affidavit filed by the parties, held that the first respondent did not prove that the petitioner is earning Rs.50,000/- per month. Taking into consideration the minor is son of the petitioner, the court below awarded a sum of Rs.3,000/- as maintenance for minor son.

7. Against that, the petitioner has come out with the present Civil Revision Petition.

8. The learned counsel for the petitioner submitted that the learned Judge failed to consider that the first respondent is living in adulterous life and petitioner filed H.M.O.P.No.1 of 2015 for divorce on the ground of adultery. The learned Judge failed to see that the first respondent has already filed M.C.No.10 of 2014 before the Judicial Magistrate, Sankarankovil for maintenance and the same is pending. Suppressing the said petition, the first respondent has filed the petition for interim maintenance in I.A.No.25 of 2015. The first respondent has filed various false cases against the petitioner and due to the mental agony and torture, the petitioner is unable to carryout the business and did not have any income. He is depending on the pension of his mother. The learned Judge having held that the respondent has not proved that the petitioner is earning Rs.50,000/- per month, erred in awarding Rs.3,000/- per month to



9.I have heard the learned counsel appearing for the petitioner and also perused the entire materials on record.

10.It is seen from the records that the learned Judge only awarded a sum of Rs.3,000/- per month to the minor son. The said amount is reasonable amount. In the circumstances, there is no irregularity or illegality in the order passed by Additional Sub Court, Tirunelveli warranting interference by this Court.

11.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

12.The learned counsel appearing for the petitioner further submitted that in H.M.O.P.No.1 of 2015, the first respondent filed counter statement and it is posted for cross-examination of the petitioner.

13.In view of the above submission, the learned Additional Sub Judge, Tirunelveli is directed to dispose the H.M.O.P.No.1 of 2015 on merits, as expeditiously as possible, in any event, not later than, 28th day of February, 2017.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

The Additional Sub Court, Tirunelveli

+1 cc to Mr.P. SENTHUR PANDIAN, ADVOCATE, SR.NO:79622

am

sva/10.01.2017/3p/3c

C.R.P (MD) No.2482 of 2016 (PD)
05.12.2016