

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.1624 of 2015

ORDER:

This Civil Revision Petition under Article 227 of Constitution of India is filed by the petitioner/husband requesting to set aside the order dated 09.02.2015 passed in I.A.no.27 of 2014 in H.M.O.P.no.55 of 2011 on the file of the Court of the learned I Additional Senior Civil Judge, Nellore, SPSR Nellore District.

2. I have heard the submissions of the learned counsel for the revision petitioner/husband and the learned counsel for the respondent/wife. I have perused the material record.

3. The facts necessary for consideration, in brief, are as follows:

The petitioner had filed H.M.O.P.no.55 of 2011 under Section 13 (1) (i-a)(i-b) of Hindu Marriage Act, 1955 for dissolution of his marriage with the respondent. The relief of interim maintenance was granted to the children in the said OP. While so, the suit in OS no.20 of 2008 was filed by the wife against the husband for return of gold ornaments and for grant of maintenance to the each of the minor child. While disposing of the said suit on merits, by judgment dated 12.11.2015, maintenance of Rs.4,000/- per month was granted to the minor children. While granting the said maintenance the learned I Additional Senior Civil Judge, Nellore in his order, had clarified that the maintenance, if any, is granted in any other proceedings under Section 125 of Code of Criminal Procedure or under the provisions of Protection of Women from Domestic Violence Act, 2005, to the said minor children i.e., the plaintiffs 2 and 3 in OS no.20 of 2008, the same shall be exempted from the maintenance granted in the said suit. However, in the said judgment, there is no reference as to the interim maintenance granted to the minor children in the marriage OP; and, therefore, the order of maintenance directing the husband to pay maintenance to the minor children in the HMOP is not exempted. Therefore, there are two orders of maintenance in operation.

4. At the hearing, the learned counsel for both the sides had fairly submitted that the order granting interim maintenance in H.M.O.P.no.55 of 2011 to the minor children be restricted in its operation upto 12.11.2015 and permit the minor children, that is plaintiffs 2 and 3 in O.S.No.20 of 2008 to reap the benefits of the maintenance granted to them in O.S.no.20 of 2008 as per the directions in the said judgment, and that if such an order is passed, the ends of justice would be met.

5. Recording the said submission, this Civil Revision Petition is disposed of, restricting the operation of maintenance order granted to the minor children in H.M.O.P.no.55 of 2011 upto 12.11.2015; and it is made clear that in view of the restriction order now passed, the said order shall not be executed/put into operation beyond 12.11.2015. The interim maintenance paid @ Rs.2,000/- as per the order of this Court, shall be given credit while implementing the order in the HMOP upto 12.11.2015 and the maintenance decree granted in favour of plaintiffs 2 and 3 i.e., the minor children in O.S.no.20 of 2008.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

M. Seetharama Murthi, J

29th March, 2016.

Note :Issue c.c. by 01.04.2016

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