

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 18.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE C.T.SELVAM
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.Nos.1261 and 1262 of 2014
and
M.P.No.1 of 2014

B.Suresh Krishna @ Suresh ... Appellant in both CMAs.
Vs.
P.R.Padmapriya
W/o.B.Suresh Kirshna @ Suresh ... Respondent in both CMAs

Civil Miscellaneous Appeals preferred under Section 19 (i) of Family Courts Act, against the fair and decreetal order in I.A.Nos.2796 of 2010 and 758 of 2011 in H.M.O.P.No.1973 of 2008 dated 10.12.2013 passed by the learned Principal Judge, Family Court, Chennai.

For Appellant
in both CMAs. : Mr.R.Ganesh Babu

For Respondent
in both CMAs. : Mr.V.R.Appaswamee

COMMON JUDGMENT

[JUDGMENT OF THE COURT WAS DELIVERED BY C.T.SELVAM, J]

The Civil Miscellaneous Appeals have been preferred against the fair and decreetal order in I.A.Nos.2796 of 2010 and 758 of 2011 in H.M.O.P.No.1973 of 2008 dated 10.12.2013 passed by the learned Principal Judge, Family Court, Chennai.

2. Appellant and respondent are husband and wife. O.P.No.1973 of 2008 has been filed under Section 12 (1) (b) and 13(1) (ia) of The Hindu Marriage Act, 1955, on the file of learned Principal Judge, Family Court, Chennai, by Appellant/husband seeking nullity and dissolution of marriage on the ground of cruelty. O.P.No.917 of 2012 has been filed under Section 9 of The Hindu Marriage Act, 1955, before Family Court,

Chennai, by respondent/wife seeking restitution of conjugal rights. I.A.No.2796 of 2010 in O.P.No.1973 of 2008 has been filed by respondent/wife, claiming interim maintenance of Rs.10,000/- per month and litigation expenses of Rs.1,500/- under Section 24 of the Hindu Marriage Act. Court below, under order dated 10.12.2013, partly allowed the said petition and directed the appellant/husband to pay Rs.5,000/- per month to petitioner/wife towards interim maintenance. I.A.No.758 of 2011 in O.P.No.1973 of 2008 has been filed by respondent/wife, seeking direction to return the sridhana articles under Section 27 of the Hindu Marriage Act. Court below, under order dated 10.12.2013, partly allowed the said petition and directed the appellant/husband to return the jewels and other articles, which were available with him to the petitioner/wife. Against such orders, the present appeals have been filed by the appellant/husband.

3. Heard learned counsel for appellant and learned counsel for respondent.

4. Learned counsel for appellant submitted that the application for interim maintenance was made at the end of the proceedings and the appellant has no means. The contention of learned counsel for respondent is that appellant was engaged in transport business.

* 5. Taking into consideration the fact that petitioner/wife is unemployed, Court below, under order dated 10.12.2013, directed the appellant/husband to pay a sum of Rs.5,000/- per month, which sum admittedly had been paid. This Court considers it appropriate to direct the appellant to continue to pay a sum of Rs.4,000/- per month pending disposal of the main O.P. Court below is directed to dispose of O.P.No.1973 of 2008 as expeditiously as possible, in any event, within a period of four months from the date of receipt of a copy of this order.

** 6. It has been brought to notice that the appellant/husband has effected 50% of the arrears calculated at Rs.5,000/- p.m. The balance due i.e 50% calculated at Rs.5,000/- p.m upto the date of the present order shall be paid into the bank account of the petitioner/wife within a period of two weeks from the date of receipt of a copy of this order, failing which this Civil Miscellaneous Appeal shall stand dismissed without further reference to this Court. Learned counsel for petitioner/wife undertakes to inform the bank account particulars of the petitioner/wife to learned counsel for appellant/husband.

@7. C.M.A.No.1261 of 2012 is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

@8. Learned counsel for appellant seeks permission of this Court to withdraw the C.M.A.No.1262 of 2014 and he has also made an endorsement to such effect.

@9. Recording the above submission, the C.M.A.No.1262 of 2014 is dismissed as withdrawn. No costs.

-s/d-

Assistant Registrar(CO)

Dated: 01/02/2018

* Para 5 Incorporate instead of existing Para 5

** @ Para 6 Newly incorporated & Para 6, 7, 8 renumbered as 7, 8 & 9 as per order of this Court dated 20.02.2018.

Sd/- Assistant Registrar(CS IV)

Dated : 21/02/2018

True Copy

Sub-Assistant Registrar

kmi

To:

1. The Principal Judge,
Family Court, Chennai,

Corrected order to be substituted
to the order already despatched
on 19.02.2018.

2. The Section Officer,
V.R.Section,
High Court, Madras.

+1 CC to Mr.R.Ganesh Babu, Advocate (SR.No.90162/17)

+1 CC to Mr.V.R.Appaswamee, Advocate (SR.No.90284/17)

KGK (CO)

MS:03/02/2018

GN(22/02/2018)

C.M.A.Nos.1261 & 1262 of 2014

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