

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2017

Coram

The Hon'ble Mr. Justice A.SELVAM
and
The Hon'ble Mr. Justice P.KALAIYARASAN

C.M.A.No.2038 of 2015
and
M.P.No.1 of 2015
C.M.P.No.4232 of 2016

T.G.Karthikeyan ... Appellant/Petitioner

Vs

Mrs.M.Lavanya ..Respondent/Respondent

Civil Miscellaneous Appeal preferred against the order dated 04.08.2015 made in I.A.No.3250 of 2012 in O.P.No.3498 of 2012, on the file of the I Additional Principal Judge, I Additional Family Court, Chennai.

For Appellant ... Mrs.Sudharsana Sundar for
Mr.M.V.Venkataseshan

For Respondent ... Mr.B.Thirumalai

JUDGMENT

(Judgment of the Court was delivered by A.SELVAM, J.)

This Civil Miscellaneous Appeal has been directed against the order dated 04.08.2015, passed in I.A.No.3250 of 2012 in O.P.No.3498 of 2012, by the First Additional Family Court, at Chennai.

2.The appellant herein, as petitioner, has filed O.P.No.3498 of 2012, on the file of the trial Court, for getting the relief of divorce, wherein, the present respondent has been shown as respondent. During pendency of the same, the respondent, as petitioner, has filed I.A.No.3250 of 2012, under Section 24 of the Hindu Marriage Act, 1955, praying to direct the respondent therein to pay interim monthly maintenance of Rs.30,000/- and also Rs.25,000/- towards litigation expenses.

3.The trial Court, after considering the divergent contentions raised on either side, has directed the respondent therein to pay a sum of Rs.15,000/- towards interim monthly maintenance and Rs.10,000/- towards litigation expenses, by way of passing the impugned order and the same is being challenged in the present Civil Miscellaneous Appeal.

4.The learned counsel appearing for the appellant has repeatedly contended to the effect that after passing order in I.A.No.3250 of 2012, O.P.No.3498 of 2012 has been allowed and the marriage between the appellant and respondent has been dissolved. The present respondent/wife has got remarried and further, the trial Court, without considering the contentions put forth on the side of the appellant/respondent, has erroneously fixed monthly interim maintenance of Rs.15,000/- and the same is also exorbitant and under the said circumstances, the quantum of interim monthly maintenance fixed by the trial Court is liable to be modified.

5.Per contra, the learned counsel appearing for the respondent/petitioner has also equally contended to the effect that the appellant/respondent is an Engineer, working in IBM and also drawing a monthly salary of Rs.80,000/-. Under the said circumstances, on the basis of financial capacity of the appellant/respondent, the trial Court has rightly fixed interim monthly maintenance of Rs.15,000/- and therefore, the quantum of interim monthly maintenance fixed by the trial Court does not require any modification.

6.It is an admitted fact that the appellant/respondent, as petitioner, has filed O.P.No.3498 of 2012, on the file of the trial Court for getting the relief of divorce against the respondent therein. It is also equally an admitted fact that during pendency of O.P.No.3498 of 2012, I.A.No.3250 of 2012 has been filed by the respondent, as petitioner, under Section 24 of the Hindu Marriage Act, 1955 for getting the relief of interim monthly maintenance as well as litigation expenses.

7.The trial Court, as pointed out earlier, has awarded interim monthly maintenance of Rs.15,000/- from the date of filing of the petition and also Rs.10,000/- towards litigation expenses.

8.The main gravamen expressed on the side of the appellant/respondent is that the quantum of interim monthly maintenance awarded by the trial Court is exorbitant. But the defence taken on the side of the respondent/petitioner is that the appellant/respondent is having paying capacity, since he has been drawing a monthly salary of Rs.80,000/-.

9.Considering the fact that after passing the impugned order in I.A.No.3250 of 2012, O.P.No.3498 of 2012 has been allowed and thereby the marriage between the parties has been dissolved, this Court is of the view to modify the quantum of interim monthly maintenance as pointed out infra.

10.It is an admitted fact that after dissolving marriage, the respondent/petitioner has got remarried. Under the said circumstances, this Court is of the view that interim monthly maintenance of Rs.12,000/- (Rupees Twelve Thousand only) can be fixed and to that effect this Civil Miscellaneous Appeal is liable to be modified.

In fine, this Civil Miscellaneous Appeal is allowed in part. The quantum of interim monthly maintenance is modified as follows:

The appellant/respondent is directed to pay interim monthly maintenance of Rs.12,000/- (Rupees Twelve Thousand only) to the respondent. In respect of other aspects, the impugned order is confirmed.

No costs. Connected miscellaneous petitions are closed.

s/d-
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

msh
To

The I Additional Principal Judge
I Additional Family Court,
Chennai.

Copy to

The Section Officer
VR Section, High Court, Madras

+1 CC to Mr.M.V. Venkateseshan, Advocate sr 72129.

+1 Cc to Mr.S. Nagarajan, advocate sr 72167.

C.M.A.No.2038 of 2015

KK (CO)
SP (07/11/2017)