

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

CORAM

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

C.M.A.No.1626 of 2017
and
C.M.P.No.8612 of 2017

N.Venkadesh Sriram Kumar ... Appellant/Respondent/
Petitioner

Vs

S.M.Lavanya ... Respondent/Petitioner/
Respondent

Civil Miscellaneous Appeal preferred against the fair and
decreetal order dated 01.03.2017 made in FC I.A.No.44 of 2017 in
F.C.O.P.No.141 of 2016, on the file of the Family Court,
Chengalpattu.

For Appellant : Mr.Lesi Saravanan

For Respondent : Mr.Camyles Gandhi

JUDGMENT

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

This Civil Miscellaneous Appeal has been directed
against the order dated 01.03.2017, passed in F.C.I.A.No.44 of
2017 in F.C.O.P.No.141 of 2016, by the Family Court,
Chengalpattu.

2.The appellant herein, as petitioner, has filed
F.C.O.P.No.141 of 2016, on the file of the trial Court, for
getting a relief of divorce, wherein, the present respondent has
been shown as respondent. During pendency of the same, the
respondent, as petitioner, has filed F.C.I.A.No.44 of 2017,
under Section 24 of the Hindu Marriage Act, 1955, praying to
direct the respondent therein to pay interim monthly maintenance.

3.The trial Court, after considering the rival
contentions put forth on either side, has allowed F.C.I.A.No.44
of 2017 and thereby directed the respondent therein to pay an
interim monthly maintenance of Rs.7,000/-, 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/respondent has repeatedly contended that the respondent/petitioner is an employee and thereby getting monthly salary of Rs.23,182/- and therefore, she is having sufficient means to maintain herself, but the trial Court, without considering the contention put forth on the side of the appellant/respondent has erroneously directed him to pay an interim monthly maintenance of Rs.7000/- and therefore, the impugned order passed by the trial Court is liable to be set aside.

5.Per contra, the learned counsel appearing for the respondent/petitioner has contended that even at the time of filing F.C.I.A.No.44 of 2017, the respondent/petitioner has done a temporary work and she is not having sufficient means to maintain herself. Under such circumstances, the present petition has been filed and the trial Court, after considering the overall evidence available on record, has rightly passed the impugned order and the same does not require any interference.

6.On the basis of rival submissions made on either side, the Court can easily discern that at the time of filing F.C.I.A.No.44 of 2017, the respondent/petitioner has done some work for monthly emoluments. But the said fact has been suppressed. Under the said circumstances, for getting proper evidence with regard to income of the respondent/petitioner, this Court is of the view that the impugned order passed by the trial Court is liable to be set aside and the matter is remitted to the file of the trial Court.

In fine, this Civil Miscellaneous Appeal is allowed without cost. The order passed in F.C.I.A.No.44 of 2017 in F.C.O.P.No.141 of 2016 is set aside and F.C.I.A.No.44 of 2017 is remitted to the file of the trial Court. In the trial Court, both parties are strictly directed to file relevant documents. Connected miscellaneous petition is closed.

7.The learned counsel appearing for both sides have agreed to dispose of F.C.O.P.No.141 of 2016. Under the said circumstances, the trial Court is directed to dispose of F.C.O.P.No.141 of 2016 before the end of December 2017 and report the same to the Registry without fail.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msk

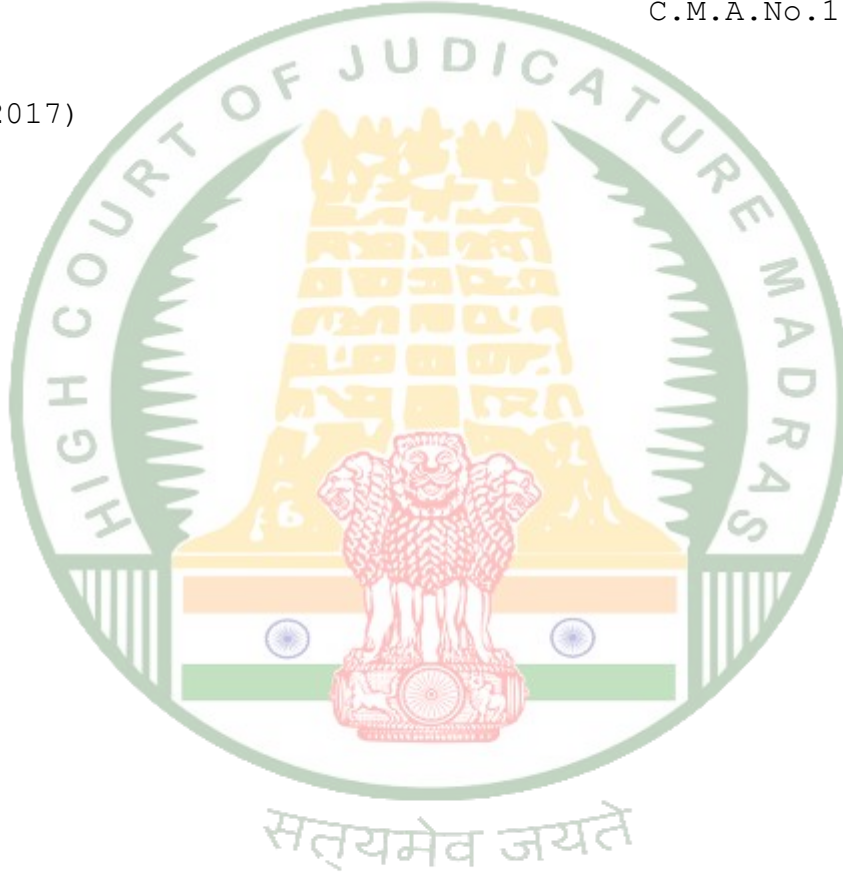
To

The Judge,
Family Court,
Chengalpattu.

+lcc to Mr.W.Camyles Gandhi, Advocate, S.R.No.74531
+lcc to M/s.Lesi Saravanan, Advocate, S.R.No.74465

C.M.A.No.1626 of 2017

NRJK(CO)
CA(15/11/2017)



WEB COPY