

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBBIAH
and

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Civil Miscellaneous Appeal Nos. 2267 and 2433 of 2016

CMA No. 2267 of 2016

Agila Subrahmaniam ... Appellant/Petitioner

Versus

Aravind Ganesan ... Respondent/Respondent

CMA No. 2433 of 2016

Aravind Ganesan ... Appellant/Respondent

Versus

Agila Subrahmaniam ... Respondent/Petitioner

Appeals filed under Section 19 of the Family Courts Act, 1984 against the Decree and Judgment dated 01.09.2016 passed in I.A. No. 2135 of 2015 in O.P. No. 3792 of 2014 on the file of the II Additional Family Court at Chennai

CMA No. 2267 of 2016

For Appellant : Ms. K. Sumathi

For Respondent : Mrs. Geetha Ramaseshan

CMA No. 2433 of 2016

For Appellant : Mrs. Geetha Ramaseshan

For Respondent : Ms. K. Sumathi

COMMON JUDGMENT

(JUDGMENT OF THE COURT WAS DELIVERED BY R. SUBBIAH, J)

These appeals have been preferred as against the quantum of maintenance awarded by the Family Court, Chennai by the decree and judgment dated 01.09.2016 passed in I.A. No. 2135 of 2015 in O.P. No. 3792 of 2014.

2. Since both the appeals arise out of the common order passed by the Court below, they are taken up together and are disposed of by this common judgment.

3. For the sake of convenience, the parties shall be referred to as per their ranking in C.M.A. No. 2267 of 2016 filed by the appellant/wife.

4. Though very many contentions have been raised on factual aspects by counsel for both sides, certain facts which are relevant for determining the correctness or otherwise of the quantum of maintenance awarded by the family Court alone are considered by us.

5. The petition for divorce has been filed by the respondent against the appellant on the ground of cruelty. The custody of child is with the appellant. The appellant is not employed. According to her, she is finding it difficult to maintain herself and to pay the school fees for the minor child. Therefore, she has filed the petition under Section 24 of the Hindu Marriage Act to direct the respondent to pay her and the minor child, a sum of Rs.70,000/- towards maintenance and Rs.1,00,000/- towards litigation expenses. However, the family court, considering the present cost of living and the quantum of school fees payable to the minor child, directed the respondent to pay a sum of Rs.25,000/- per month to the petitioner and Rs.15,000/- per month to the minor child totalling Rs.40,000/- towards interim maintenance from the date of filing the petition. The maintenance amount was directed to be paid on or before 5th of every English Calandar month. Aggrieved by the same, both the appellant and the respondent have filed these appeals questioning the quantum of maintenance awarded by the court below.

6. Today, when the appeals are taken up for consideration, the learned counsel for the respondent produced a Memo of calculation indicating the details of payment already made to the appellant and his present salary. It is further submitted that even before the filing of the petition for maintenance and during the pendency of the petition for maintenance, the respondent was regularly paying maintenance to the appellant. From May 2014 to September 2016, the respondent has regularly paid a sum of Rs.25,000/- towards maintenance. From October 2016, the respondent has been paying a sum of Rs.40,000/- regularly to the appellant. As on date, the respondent has paid the maintenance amount and no amount is due and payable by the respondent.

7. On the other hand, the learned counsel for the appellant demonstrated as to how the sum of Rs.40,000/- awarded by the Family Court is not sufficient for the appellant to take care of herself and to pay the school fees payable to the minor child.

8. We have heard the learned counsel on either side. On perusal of the salary certificate of the respondent, it could be seen that the respondent is receiving a sum of Rs.2,21,384/- per month as salary, after all statutory deductions. Therefore, we are of the opinion that the amount of Rs.40,000/- awarded by the court below can be enhanced to Rs.60,000/- and such amount shall be paid by the respondent from the date of filing of C.M.A. No. 2267 namely 30.09.2016.

9. As far as the school fee payable to the minor child is concerned, the appellant/wife is directed to furnish the particulars of payment to the respondent and on receipt of the same, the respondent is directed to pay the amount by way of demand draft drawn in the name of the school and handover the same to the appellant/wife so as to enable her to pay the school fees.

10. Accordingly, both the appeals are disposed of. No costs. The respondent is directed to pay the arrears of maintenance as indicated above within a period of four weeks and continue to pay the same every month. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rsh

To

The II Additional Family Court
Chennai

+1cc to Mr.K.Sumathi, Advocate, S.R.No.26314

+2cc to Mr.Geeta Ramaseshan, Advocate, S.R.No.36630,36631

CMA Nos. 2267 & 2433/2016

SJ(CO)
RS(15/06/2017)