

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.12.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

C.M.A.No.2523 of 2016

and C.M.P.No.17883 of 2016

J.Vinod Kumar ... Appellant/Respondent

Vs.

S.Thilaka ... Respondent/Appellant

Civil Miscellaneous Appeal preferred under Section 19 of the Family Courts Act praying to set aside the order and decreetal Order dated 14.10.2016 passed in I.A.No.599 of 2016 in F.C.O.P.No.9 of 2016 by the Family Court, Erode.

For Appellant : Mr.V.S.Kesavan
for Mr.I.C.Vasudevan

For Respondent : Mr.R.Jayaprakash
for Mr.M.Guruprasad

J U D G M E N T

[Judgment of the Court was delivered by A.SELVAM,J.]

This Civil Miscellaneous Appeal has been directed against the order dated 14.10.2016, passed in I.A.No.599 of 2016 in F.C.O.P.No.9 of 2016, by the Family Court, Erode.

2.The appellant herein, as petitioner, has filed F.C.O.P.No.9 of 2016, on the file of the trial Court, praying to pass a decree of divorce, wherein, the present respondent has been shown as respondent.

3.During pendency of the same, the respondent, as petitioner, has filed I.A.No.599 of 2016, under Section 24 of the Hindu Marriage Act, 1955, praying to pass an order of interim monthly maintenance to the tune of Rs.12,000/- and also litigation expenses.

4.The trial Court, after considering the available

evidence on record, has directed the respondent therein to give interim monthly maintenance of Rs.5,000/- and also Rs.2,000/- towards litigation expenses, by way of passing the impugned order and the same is being challenged in the present Civil Miscellaneous Appeal.

5.The learned counsel appearing for the appellant/respondent has contended that the respondent/petitioner has been working and thereby, earning a monthly salary of Rs.18,000/- and therefore, she is having sufficient means to maintain herself and the trial Court, without considering the said aspect, has erroneously allowed I.A.No.599 of 2016 in part, by way of passing the impugned order and the same is liable to be set aside.

6.Per contra, the learned counsel appearing for the respondent/petitioner has contended that even though such a plea has been taken on the side of the appellant/respondent to the effect that the respondent/petitioner is earning a monthly salary of Rs.18,000/-, no document has been filed and the trial Court, after considering the available evidence on record, has rightly partly allowed the petition, by way of passing the impugned order and the same does not require any interference.

7.It is an admitted fact that the appellant/respondent, as petitioner, has filed F.C.O.P.No.9 of 2016 on the file of the trial Court for getting a relief of divorce. It is also equally an admitted fact that during pendency of F.C.O.P.No.9 of 2016, the present petition has been filed under Section 24 of the Hindu Marriage Act, 1955.

8.The trial Court, after considering the available evidence on record, directed the respondent therein to give interim monthly maintenance of Rs.5,000/- and also litigation expenses to a tune of Rs.2,000/-.

9.Considering the present trend of life and also considering the prices of barest things, this Court is of the view that Rs.4,000/- is sufficient to maintain the respondent/petitioner and to that extent, the present Civil Miscellaneous Appeal is liable to be allowed.

In fine, this Civil Miscellaneous Appeal is allowed in part without costs. The order passed by the trial court is modified as follows :

The appellant/respondent is directed to pay interim monthly maintenance of Rs.4,000/- to the respondent/petitioner from the date of filing of I.A.No.599 of 2016. In other aspects, there is no modification. The trial Court is directed to dispose of F.C.O.P.No.9 of 2016 before the end of February

2018 and report the same to the registry without fail.
Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

gya

To

The Judge,
The Family Court,
Erode.

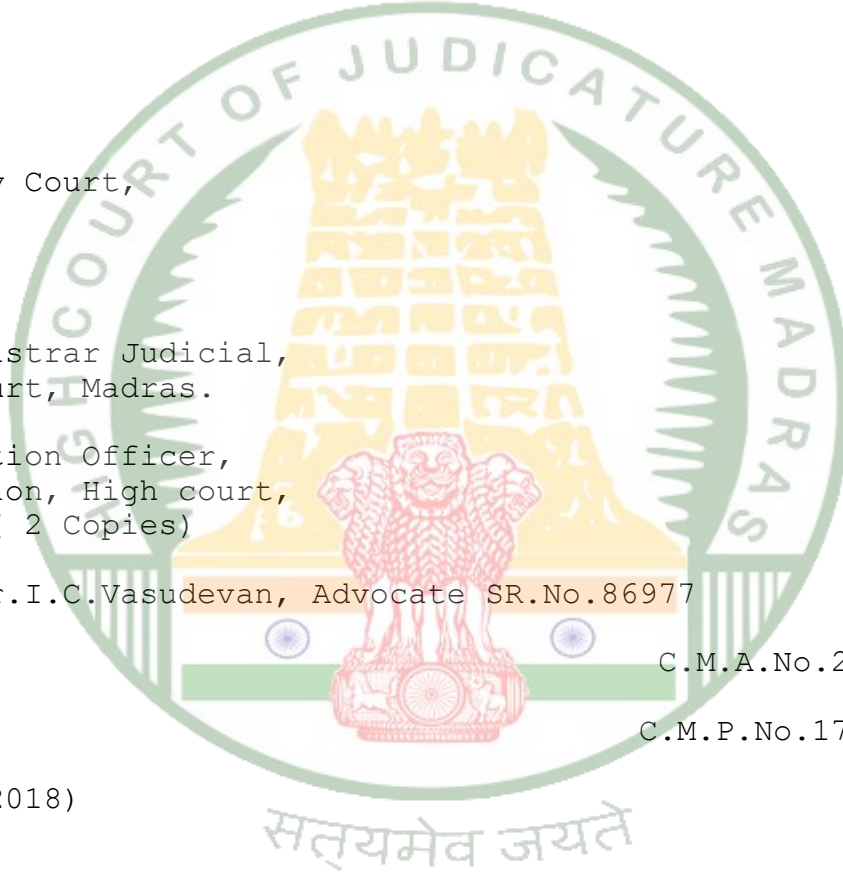
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- 1.The Registrar Judicial,
High Court, Madras.
- 2.The Section Officer,
VR Section, High court,
Madras.(2 Copies)

+1cc to Mr.I.C.Vasudevan, Advocate SR.No.86977

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and
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SSI(CO)
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