

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2017

CORAM

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

C.M.A.NO.3007 OF 2017
AND
C.M.P.NO.17958 OF 2017

A.Gopalakrishnan .. Appellant/Husband

Vs

G.Mohana .. Respondent/Wife

Civil Miscellaneous Appeal preferred against the judgment and decree dated 04.09.2017, passed in I.A.No.1657 of 2013, in OP.No.3098 of 2012 on the file of the V Additional Family Court, Chennai.

For Appellant ... Mr.A.Rajesh Kanna

For Respondent ... Ms.M.Meenakshi for
Mr.P.Anbarasan

JUDGMENT

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

This Civil Miscellaneous Appeal has been directed against the order dated 04.09.2017 passed in I.A.No.1657 of 2013, in O.P.No.3098 of 2012, by the V Additional Family Court, Chennai.

2.The appellant herein, as petitioner, has filed O.P.No.3098 of 2012, under Sections 11 and 12 of the Hindu Marriage Act, 1955, wherein, the present respondent has been shown as respondent.

3.During pendency of the same, the respondent, as petitioner, has filed I.A.No.1657 of 2013 under Section 24 of the said Act for getting interim monthly maintenance.

4.The trial Court, after considering the available

evidence on record, has partly allowed the petition and thereby directed the respondent therein to pay interim monthly maintenance of Rs.6,000/- from 01.02.2013, by way of passing the impugned order and the same is being challenged in the present Civil Miscellaneous Appeal.

5.It is an admitted fact that the appellant, as petitioner, has filed O.P.No.3098 of 2013, on the file of the trial Court under Sections 11 and 12 of the Hindu Marriage Act, 1955. It is also equally an admitted fact that the respondent herein, as petitioner, has filed I.A.No.1657 of 2013 under Section 24 of the said Act.

6.The main defence taken on the side of the respondent in I.A.No.1657 of 2013 is that since the main O.P.No.3098 of 2013 has been filed under Sections 11 and 12 of the said Act, I.A.No.1657 of 2013 is not at all maintainable under section 24 of the said Act.

7.In fact, this Court has perused the provision of Section 24 of the said Act, wherein it is clearly mentioned that while pending any proceeding under the said Act, the provision of Section 24 can be invoked.

8.Considering the fact that if any proceeding is pending under the Hindu Marriage Act, 1955, the provision of Section 24 is legally maintainable, the main defence taken on the side of the appellant/respondent is not legally correct.

9.Coming to the quantum of interim monthly maintenance, the trial Court has granted only a sum of Rs.6000/-, even though the petitioner therein has prayed to grant a sum of Rs.10,000/-.

10.Considering the present trend of life and also price of barest things, the quantum of amount awarded by the trial Court is just and reasonable and the same does not require any modification and therefore, the present Civil Miscellaneous Appeal deserves to be dismissed.

In fine, this Civil Miscellaneous Appeal is dismissed without costs. The order passed in I.A.No.1657 of 2013 in O.P.No.3098 of 2012 by the trial Court is confirmed. Further, the trial Court is directed to dispose of O.P.No.3098 of 2012

before the end of January 2018 and report the same to the Registry without fail. Connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msk

To

The V Additional Family Court,
Chennai

+1cc to Mr.A.Rajesh Kanna, Advocate, S.R.No.85593

+1cc to Mr.P.Anbarasan, Advocate, S.R.No.85395

C.M.A.No.3007 of 2017

CNR(CO)
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