

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.11.2017

CORAM:

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

C.M.A.No.3042 of 2017
and
C.M.P.No.18461 of 2017

M.Gopal @ Rajagopal ... Appellant/Respondent/Petitioner

vs.

D.Kalpana ... Respondent/petitioner/Respondent

Civil Miscellaneous Appeal filed against the order dated 07.10.2016 passed by the Additional Principal Family Court, Coimbatore, in I.A.No.1147 of 2015 in H.M.O.P.No.1238 of 2014.

For Appellant :Ms.C.Keerthiga for
M/s.M.Subha

For Respondent :Mr.J.Pratheep for
Mr.P.Saravana Sowmiyan

JUDGMENT

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

This Civil Miscellaneous Appeal has been directed against the order dated 07.10.2016 passed in I.A.No.1147 of 2015 in H.M.O.P.No.1238 of 2014, by the Additional Principal Family Court, Coimbatore.

2.The appellant herein, as petitioner, has filed H.M.O.P.No.1238 of 2014, 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/wife has filed I.A.No.1147 of 2015 on the file of the trial Court, under Section 24 of the Hindu Marriage Act, 1955, praying to direct the respondent therein to pay interim monthly maintenance of Rs.10,000/- per month.

4.The trial Court, after considering the available evidence on record, has partly allowed the petition and thereby directed the respondent therein to pay a sum of Rs.4000/- per mensam, as interim monthly maintenance, 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 to the effect that for several years, both the appellant/respondent are living separately. Under the said circumstances, the appellant, as petitioner, has filed H.M.O.P.No.1238 of 2014, for getting divorce. During pendency of the same, the respondent/wife has filed I.A.No.1147 of 2015 for getting interim monthly maintenance. The trial Court, without considering the contentions put forth on the side of the appellant/respondent, has erroneously directed the appellant/respondent to pay interim monthly maintenance of Rs.4000/- per month, by way of passing the impugned order and therefore, the same is liable to be set aside.

6.Per contra, the learned counsel appearing for the respondent/wife has contended to the effect that in I.A.No.1147 of 2015, the respondent/wife has claimed a sum of Rs.10,000/- per mensam towards interim monthly maintenance and the trial Court has awarded only a reasonable amount of Rs.4000/- per month, by way of passing impugned order and therefore, the same does not require any interference.

7.It is an admitted fact that the appellant/respondent, as petitioner, has filed H.M.O.P.No.1238 of 2014, on the file of the trial Court, for getting a decree of divorce. During pendency of the same I.A.No.1147 of 2015 has been filed by the respondent/wife, as petitioner, for getting interim monthly maintenance.

8.The trial Court, after considering the averments made in the petition and also counter, has rightly awarded interim monthly maintenance of Rs.4000/- per month. The quantum of amount awarded by the trial Court is not excessive.

9.Considering the aforesaid circumstances, the order passed by the trial Court does not call for interference and altogether, 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.1147 of 2015 in H.M.O.P.No.1238 of 2014, by the trial Court, is confirmed. The trial Court is directed to dispose of the H.M.O.P.No.1238 of 2014 before the end of January 2018 and report the same to the Registry without fail. Connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(CS-)

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Sub Assistant Registrar

msk

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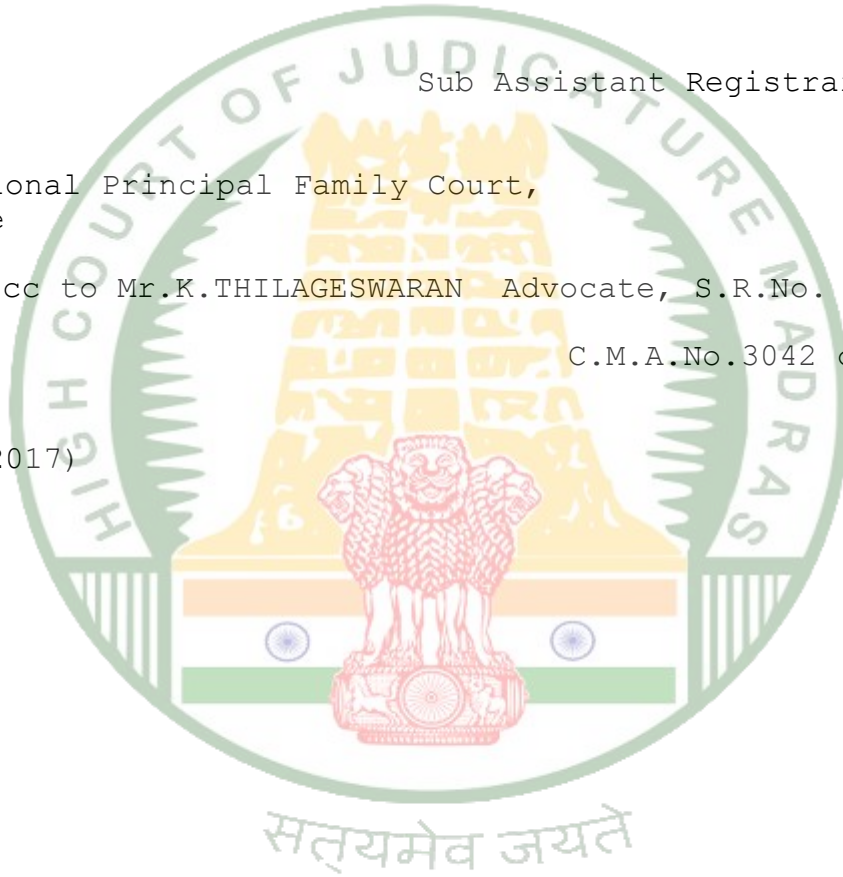
The Additional Principal Family Court,
Coimbatore

+lcc to Mr.K.THILAGESWARAN Advocate, S.R.No. 83164

C.M.A.No.3042 of 2017

PVS (CO)

TR(27/12/2017)



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