

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 24.11.2017

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.PD.Nos.2666 & 2667 OF 2014

Shanmugavadivu ... Petitioner in both C.R.Ps.

-VS-

Selvakumar ... Respondent in both C.R.Ps.

C.R.P.PD.No.2666 of 2014 is filed against the order, dated 18.03.2014, passed in I.A.No.13 of 2014 in H.M.O.P.No.108 of 2013 on the file of Subordinate Judge, Nagapattinam.

C.R.P.PD.No.2667 of 2014 is filed against the order, dated 18.03.2014, passed in I.A.No.12 of 2014 in H.M.O.P.No.108 of 2013 on the file of Subordinate Judge, Nagapattinam.

For petitioner : Mr.S.Sounthar

For respondent : Mr.R.Subramanian

COMMON ORDER

Not satisfied with the award of maintenance granted by the Subordinate Judge, Nagapattinam, the petitioner has filed these these Civil Revision Petitions.

2. The case of the petitioner is that her husband is employed outside India and earning around Rs.8.00 lakhs per month and, in corelation to the earning capacity, maintenance should be granted.

3. The petitioner claimed a sum of Rs.1.00 lakh and Rs.50,000/- towards maintenance for herself and her child respectively, whereas the trial Court has granted only Rs.10,000/- and Rs.5,000/- respectively. According to the petitioner, the grant of maintenance by the Court below is not corresponding to the earning capacity of her husband and, therefore, the maintenance has to be enhanced.

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4. It is well settled that maintenance is sought to survive and the same shall be according to the needs for survival. Merely because the opposite party is earning much, maintenance cannot be awarded,

corresponding to luxury. In other words, the claim of maintenance shall be on the basis of reasonable living standards and it cannot be on the basis of wants. It is also pertinent to note that the Court below has found that the petitioner has not proved, by any evidence, that the respondent/husband has been earning Rs.8.00 lakhs per month. On the other hand, it is admitted that the petitioner is employed as a Professor in Puducherry University. In such an event, the petitioner shall be construed to be an independent member and is capable of maintaining herself on her own income. Since a statement was made by the petitioner that she was unemployed at the time of the petition, a sum of Rs.10,000/- and Rs.5,000/- per month was granted to herself and the child respectively, towards maintenance.

5. In view of what is stated above, the maintenance of Rs.10,000/- awarded to the petitioner by the Court below is confirmed. However, considering the present day price index and the requirements of the child for having good education, the maintenance of Rs.5,000/- awarded to the child is enhanced to Rs.10,000/-. The Subordinate Judge, Nagapattinam is directed to dispose of H.M.O.P.No.108 of 2013, on merits

and in accordance with law, within a period of two months from the date of receipt of a copy of this order.

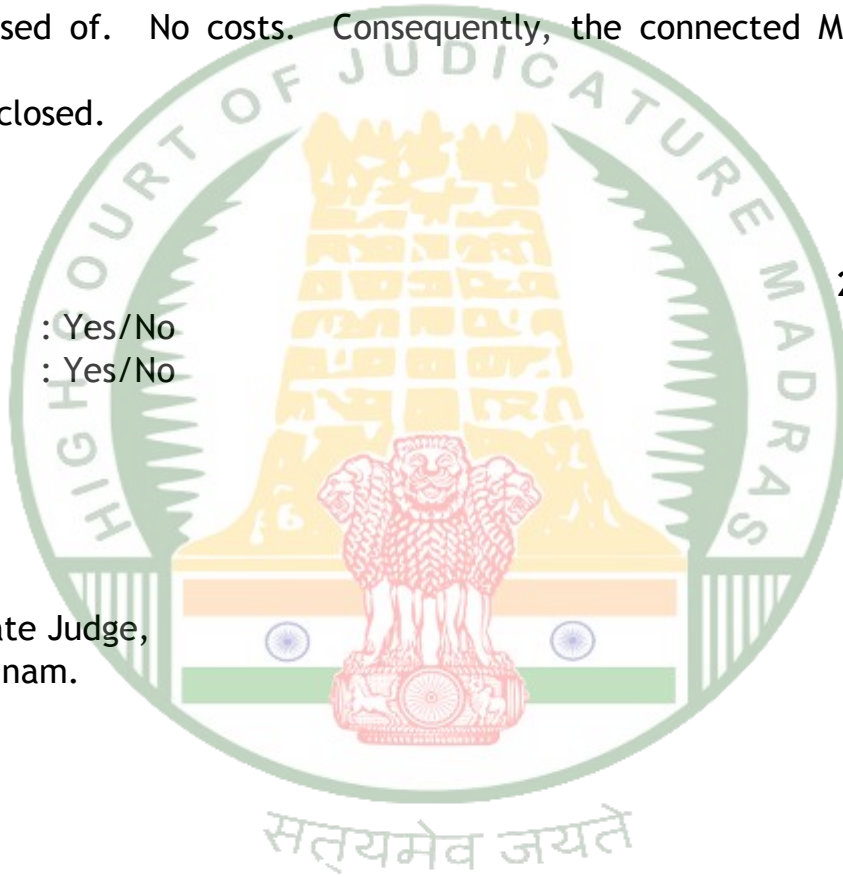
6. With the above modification, these Civil Revision Petitions are disposed of. No costs. Consequently, the connected M.P.Nos.1 of 2014 are closed.

24.11.2017

Index : Yes/No
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To

Subordinate Judge,
Nagapattinam.



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M.GOVINDARAJ, J.

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