

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

CMA No.629 of 2017
and CMP No.3612 of 2017

R.Manimudi

... Appellant

vs.

M.Backialakshmi

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act, 1984 against the order and decree in I.A.No.1796 of 2012 in HMOP No.985 of 2008 dated 05.05.2014 on the file of the learned Judge, Family Court, Coimbatore.

For Appellant : Mr.A.Karthik Lakshmanan

J U D G M E N T

(Order of the Court was made by M.GOVINDARAJ, J.)

Appellant filed petition for divorce under Section 13(1)(i-a) of Hindu Marriage Act, before the Family Court, Coimbatore in HMOP No.985 of 2008. In the above petition for divorce, the respondent/wife filed an interim application claiming, interim maintenance and litigation expenses. The Family Court, Coimbatore, by its order dated 05.05.2014 had granted a sum of Rs.2,000/- per month, towards interim maintenance from the date of filing of the petition till 05.05.2014 and thereafter, a sum of Rs.3,000/- per month from 06.05.2014 till the disposal of HMOP No.985 of 2008. Against the order passed by the Family Court, Coimbatore dated 05.05.2014, the petitioner is before this Court.

2. Appellant/husband contends that he himself is earning a sum of Rs.5,000/- only per month and with that meagre income, he has to take care of his aged parents and their medical expenses. The respondent/wife had deserted the appellant/husband, for not setting up a separate home. The respondent/wife is also not cooperating with the trial of the main case, with an intention to drag on the proceedings and therefore, the petition for interim maintenance ought not to have been entertained and the sum awarded is exorbitant.

3. From the perusal of the pleadings, it is seen that the respondent/wife has made a rival contention that the petitioner is running a grocery business at Viraliyur, which is a mofussil area and earning a sum of Rs.50,000/- per month. However, considering the allegation and counter allegation, the learned Judge, Family Court, Coimbatore, had notionally fixed the monthly income at Rs.10,000/- and has ordered Rs.2,000/- per month towards interim maintenance from the date of filing of interim petition till 05.05.2014 and a sum of Rs.3,000/- from 06.05.2014, till the disposal of the main petition for divorce and also a sum of Rs.3,000/- towards litigation expenses.

4. The matter is pending from 2008, almost for the past 9 years and therefore, we are of the view that it is just and reasonable to grant the interim maintenance and litigation expenses. The order of the learned Judge, Family Court, Coimbatore, appears to be very reasonable and we are not inclined to interfere with the order of the Family Court, at this stage. Therefore, we confirm the same. However, a direction is given to the Family Court, Coimbatore, to complete the trial within a period of three months from the date of receipt of a copy of this order.

5. In the result, the Civil Miscellaneous Appeal is dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ars

To

The Family Judge
Coimbatore.

+1 cc to Mr.A.L.Ganthimathi Advocate sr 13174/17

CMA No.629 of 2017
and

CMP No.3612 of 2017

br(co)
aa16/03/2017