

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3527 of 2014
and M.P.No.1 of 2014

Natarajan @ Srinivasan

.. Petitioner

Vs.

Reena

.. Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 30.06.2014 made in I.A.No.7 of 2014 in H.M.O.P.No.19 of 2013 on the file of the Subordinate Court, Harur.

For Petitioner : Mr.A.Sundara Vadhanan
For Respondent : Mr.V.Vijayakumar

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 30.06.2014 made in I.A.No.7 of 2014 in H.M.O.P.No.19 of 2013 on the file of the Subordinate Court, Harur.

2. The petitioner is husband and respondent is wife. The respondent filed H.M.O.P.No.19 of 2013 on the file of the Subordinate Court, Harur, for divorce. The petitioner filed counter and is contesting the HMOP. The respondent filed I.A.No.7 of 2014 for claiming interim maintenance of Rs.8,000/- per month for maintenance of her minor daughter.

3. According to the respondent, the petitioner is having agricultural land, working as a lorry driver and is earning Rs.30,000/- per month. He is not maintaining the respondent and minor daughter. The respondent is doing coolie work and the income received by her is not sufficient to maintain the respondent and her minor daughter. In the circumstances, she is claiming Rs.8,000/- per month as interim maintenance.

4. The petitioner filed counter affidavit in the said application and denied that he is earning Rs.30,000/- per month. The respondent left the matrimonial home. Due to her attitude to live a lavish life and failure to give respect to the petitioner, the petitioner had lost mental peace and incurred loss. The petitioner is not working as a lorry driver. He owned a lorry and due to debts, he

sold his lorry and even now he is in debts. The petitioner wants to live with the respondent and minor daughter.

5. The learned Judge considering the averments made in the affidavit, counter affidavit and marriage between the petitioner and respondent is subsisting, held that it is the duty of the petitioner to maintain the respondent and minor child and ordered Rs.6,000/- per month as interim maintenance to be paid by the petitioner to the respondent.

6. Against the said order dated 30.06.2014 made in I.A.No.7 of 2014, the present Civil Revision Petition is filed by the petitioner.

7. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

8. From the materials available on record, it is seen that the respondent has stated that the petitioner is earning Rs.30,000/- per month as a lorry driver and from the agricultural land. But she has not substantiated the said claim by letting in any acceptable evidence. The petitioner has stated that he incurred loss, sold his

lorry to discharge the debts, even now he is in debts and not working as a lorry driver. The respondent has stated that she is working as a coolie and the income received by her is not sufficient to maintain herself and minor child. The learned Judge has not taken into consideration that the respondent is working as a coolie. It is admitted that the petitioner and respondent are husband and wife and the minor daughter is born in the wedlock. The petitioner is duty bound to maintain the minor child. There is no evidence to show that the petitioner is a lorry driver. In the circumstances, the sum of Rs.6,000/- ordered by the learned Judge is on higher side. Therefore, interim maintenance of Rs.6,000/- is modified directing the petitioner to pay a sum of Rs.3,000/- per month to the respondent and minor child.

9. In the result, the Civil Revision Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No

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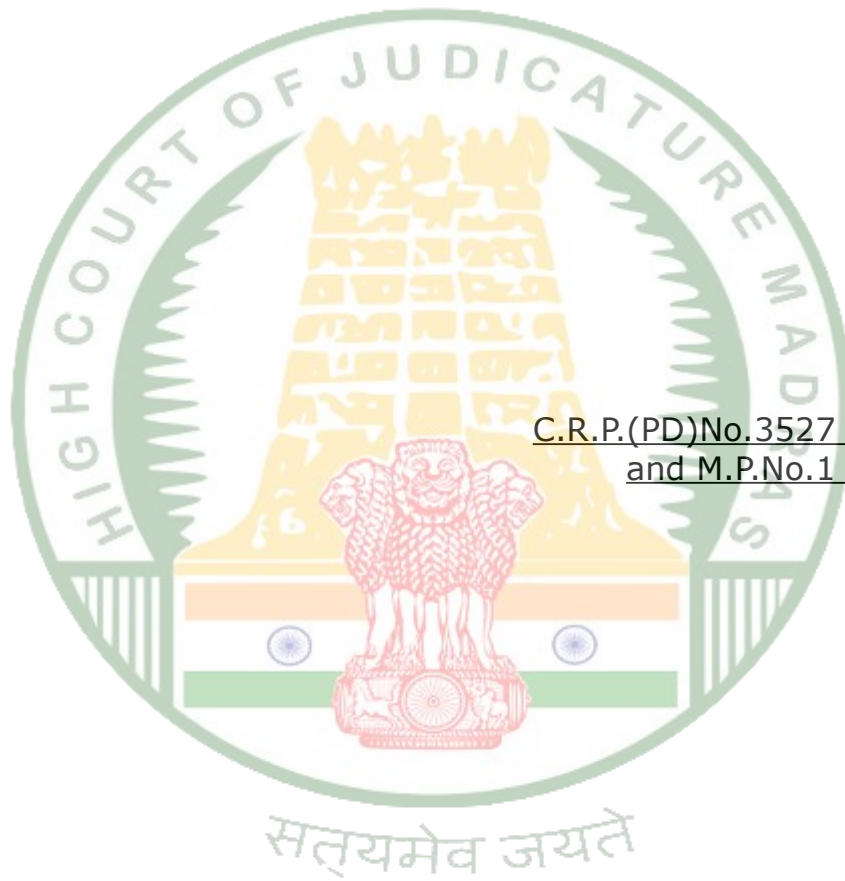
The Subordinate Judge, Harur.



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V.M.VELUMANI,J.

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