

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2442 of 2011
& M.P.No.1 of 2011

K.Vijayan

.. Petitioner

Vs.

Rani

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 29.01.2011 made in I.A.No.428 of 2009 in F.C.O.P.No.68 of 2008 on the file of the Family Court, Salem.

For Petitioner : Mr.V.R.Rajasekaran

For Respondent : Not ready in notice

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 29.01.2011 made in I.A.No.428 of 2009 in F.C.O.P.No.68 of 2008 on the file of the Family Court, Salem.

2. The petitioner is the husband and respondent is the wife. The petitioner filed F.C.O.P.No.68 of 2008 on the file of the Family Court, Salem, for divorce on the ground of cruelty. The respondent filed I.A.No.428 of 2009 for interim maintenance of Rs.5,000/- per month from the date of petition till the disposal of the above F.C.O.P. and another sum of Rs.5,000/- towards litigation expenses.

3. According to the respondent, the marriage between the petitioner and respondent was conducted on 30.06.1976 and they have three children. The petitioner abandoned the respondent and children and he is not maintaining them. The petitioner is working in a textile show room and is getting a sum of Rs.8,000/- per month as salary. He is owning a residential house and getting Rs.3,000/- as rental income.

4. The petitioner filed counter affidavit and denied that he is getting a sum of Rs.8,000/- per month as salary and Rs.3,000/- as rental income. He stated that he is getting only a sum of Rs.2,000/- per month as salary and only Rs.700/- as rental income. In his evidence, he stated that he is living in a rented house and paying

Rs.800/- as rent. The petitioner also submitted that the respondent has deserted him and left the matrimonial home.

5. The learned Judge considering the averments made in the affidavit and counter affidavit ordered the application directing the petitioner to pay a sum of Rs.2,000/- per month as interim maintenance to the respondent from the date of petition till the disposal of F.C.O.P. and to pay a sum of Rs.3,000/- towards litigation expenses.

6. Against the said order dated 29.01.2011 made in I.A.No.428 of 2009, the present civil revision petition is filed by the petitioner/husband.

7. Heard the learned counsel for the petitioner and perused the materials available on record. Notice is not served on the respondent.

8. From the materials available on record, it is seen that the respondent has filed an application for interim maintenance stating that the petitioner is earning Rs.8,000/- per month as salary and getting Rs.3,000/- as rental income. The petitioner denied the same

and stated that he is earning only Rs.2,000/- per month and only getting Rs.700/- as rental income. Both the parties have not filed any document to substantiate their respective claims.

9. The learned Judge considering the nature of employment of the petitioner and that he is owning a residential house directed the petitioner to pay a sum of Rs.2,000/- per month as interim maintenance to the respondent from the date of petition till the disposal of F.C.O.P. and a sum of Rs.3,000/- towards litigation expenses. It is the duty of the husband to maintain his wife. It is not the case of the petitioner that the respondent has income to maintain herself and the amount ordered by the learned Judge is not excessive as ordered by the learned Judge. In the circumstances, the petitioner is liable to pay the interim maintenance to the respondent. There is no reason to set aside the impugned order of the learned Judge.

10. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16.08.2017

Index : Yes/No
dm/kj

To

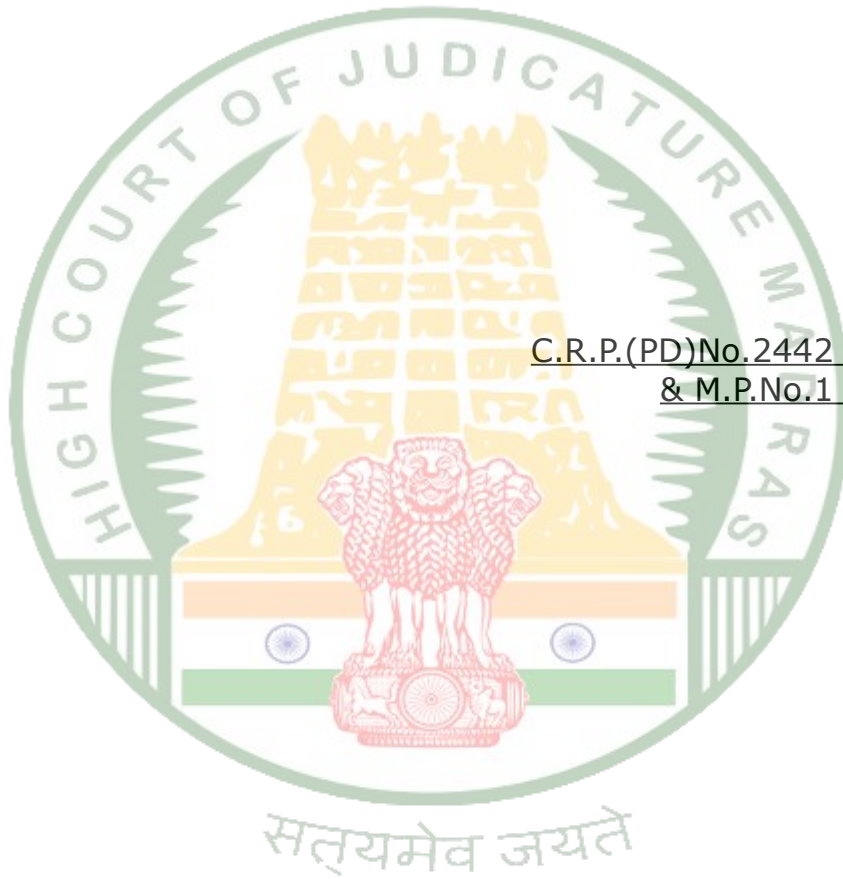
The Family Court, Salem.



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V.M.VELUMANI, J.

dm/kj



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