

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1121 of 2015
& M.P.No.1 of 2015

Chandrasekar .. Petitioner

Vs.

Bhuvaneswari .. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order of the Subordinate Judge's Court at Harur, dated 03.12.2014 in I.A.No.31 of 2012 in H.M.O.P.No.72 of 2011.

For Petitioner : Mr.P.Valliappan

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed against the fair and decretal order of the Subordinate Judge's Court at Harur, dated 03.12.2014 in I.A.No.31 of 2012 in H.M.O.P.No.72 of 2011.

2.The petitioner is the husband and respondent is the wife in H.M.O.P.No.72 of 2011. The petitioner filed the said H.M.O.P against the respondent for divorce. The respondent filed I.A.No.31 of 2012, under Section 24 of the Hindu Marriage Act, claiming interim maintenance of a sum of Rs.15,000/- per month for herself and her minor daughter. The son of the petitioner and respondent is with the petitioner.

3.The respondent made various allegations against the petitioner. According to the respondent, the petitioner is working as Assistant Professor in a College in Erode and is earning Rs.40,000/- per month. The petitioner is not maintaining the respondent and her minor daughter. In the circumstances, she has come out with the present I.A, claiming interim maintenance for herself and her minor daughter.

4.The petitioner filed counter affidavit and denied all the allegations made against him. According to the petitioner, he is getting only a sum of Rs.15,000/- per month and he has to maintain his aged parents and minor son. The salary which the petitioner is

getting is not sufficient for maintaining the petitioner, minor son and his parents. The respondent is owning a bungalow, 100 acres of agricultural land and coconut farm. The respondent is a member of joint family. They sold house site in Dharmapuri and is having one crore cash with them. From the agricultural land, coconut farm, she is getting more than one crore income per year.

5. Before the learned Judge, the respondent examined herself as PW1 and did not mark any documents. The petitioner examined 3 witnesses and marked 7 documents.

6. The learned Judge, considering the averments made in the affidavit, counter affidavit and materials available on record, directed the petitioner to pay a sum of Rs.5,000/- to the respondent and minor daughter.

7. Against the said order dated 03.12.2014, made in I.A.No.31 of 2012 in H.M.O.P.No.72 of 2011, the petitioner has come out with the present Civil Revision Petition.

8. Heard the learned counsel for the petitioner and

perused the materials available on record. Though notice has been served on the respondent and her name is printed in the cause list, there is no representation either in person or through counsel.

9.From the records, it is seen that the petitioner has admitted that he is working as an Assistant Professor in a college in Erode and has stated that he is getting a sum of Rs.15,000/-. He has not produced salary certificate to substantiate his claim. The learned Judge, considering the averments of the respondent that petitioner is getting Rs.40,000/- per month and failure of the petitioner to produce the salary certificate, rejected the contention of the petitioner that he is getting only a sum of Rs.15,000/-. The petitioner has stated that the respondent is owning number of properties and is getting agricultural income of one crore per year. The petitioner has not produced any document to substantiate this claim. The petitioner has produced Exs.P5 and P6, sale deeds, wherein the respondent is also one of the vendor and the sale price was Rs.1,17,000/-. The learned Judge, considering that the sale deed is of the year 2008, held that the respondent may not have her share of sale consideration when she filed petition for maintenance. The respondent has not filed any document to show

that petitioner is earning Rs.40,000/- per month. But based on the admission of the petitioner that he is working as an Assistant Professor, the learned Judge directed the petitioner to pay Rs.5,000/- to the petitioner and minor daughter. The said amount is not on higher side, considering the fact that the petitioner is working as Assistant Professor in a college and he is duty bound to maintain his wife and daughter. In the circumstances, there is no irregularity or illegality warranting interference with the order of the learned Sub Judge dated 03.12.2014.

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

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Index: Yes/No

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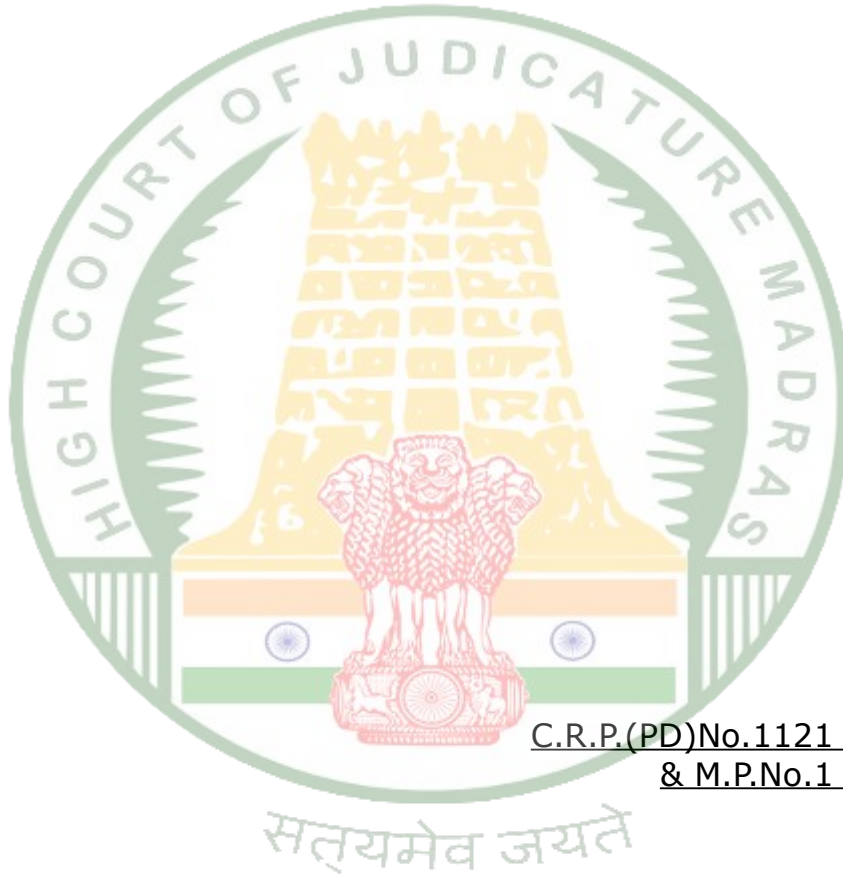
To

The Subordinate Judge,
Harur.

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V.M.VELUMANI,J.

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