

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3348 of 2011
& M.P.No.1 of 2011

T.Jaikumar

.. Petitioner

Vs.

J.Uma Lekshmi

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 05.07.2011 made in I.A.No.1419 of 2010 in O.P.No.2037 of 2008 on the file of the learned II Additional Principal Family Judge, Chennai.

For Petitioner : M/s.K.Devi
for M/s.Sheila Jeyaprakash

For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 05.07.2011 made in I.A.No.1419 of 2010 in O.P.No.2037 of 2008 on the file of the learned II Additional

Principal Family Judge, Chennai.

2. The petitioner is husband and respondent is the wife. The petitioner filed O.P.No.2037 of 2008 on the file of the II Additional Principal Family Judge, Chennai for divorce on the ground of cruelty and desertion.

3. The respondent filed counter affidavit and is contesting the O.P. The respondent filed I.A.No.1419 of 2010, claiming a sum of Rs.1,50,000/- to secure separate residence in T.Nagar area to be near the respondent's parents house. The respondent also filed I.A.No.1420 of 2010 under Section 24 of the Hindu Marriage Act to direct the petitioner to pay a sum of Rs.35,000/- towards monthly maintenance from the date of petition and also to pay a sum of Rs.25,000/- towards litigation expenses, pending disposal of the O.P.No.2037 of 2008.

4. According to the respondent, the petitioner and his family members are having vast business contracts and are in possession of valuable immovable properties in India and all over the world. The petitioner is earning huge income from the business. The

petitioner is not maintaining the respondent. Previously, the respondent was working as a teacher. Now she is not working. She is depending on her parents and living with them in Chennai. Her brother got married and in order to have a privacy, she wants to have a separate rental residence, for which she requires a sum of Rs.1,50,000/- as rental advance. Since she is unemployed, she seeks Rs.35,000/- as interim maintenance. Therefore, she filed the I.A.No.1420 of 2010 for interim maintenance.

5. Petitioner did not file any counter affidavit in the present I.A.No.1419 of 2010. According to the petitioner, due to pendency of cases and attitude of the respondent, he could not concentrate on his business and incurred heavy loss and he is in debt. Before the learned Judge, no oral and documentary evidence were let in. The learned Judge, considering the status of the petitioner and his admission in the counter affidavit filed in I.A.No.1420 of 2010 for interim maintenance, directed the petitioner to pay a sum of Rs.10,000/- towards monthly maintenance from the date of petition i.e. from 12.04.2010 and Rs.10,000/- towards litigation expenses. In I.A.No.1419 of 2010, the learned Judge, directed the petitioner to pay a sum of Rs.50,000/- to secure separate residence

to the respondent.

6. Against the said order dated 05.07.2011 made in I.A.No.1419 of 2010 in O.P.No.2037 of 2008, the petitioner has come out with the present civil revision petition.

7. Heard the learned counsel appearing for the petitioner and perused the materials available on record. Though notice was served on the respondent and her name is printed in the cause list, there is no representation either in person or through counsel.

8. According to the petitioner, the first respondent has not taken any steps for taking a house on rent and learned Judge erroneously directed the petitioner to pay a sum of Rs.50,000/- towards rental advance. The said contention has considerable force. At the same time, it has to be taken into account that the petitioner, as a husband is liable to pay the amount towards advance for taking a house on rent by the respondent wife.

9. Taking into consideration all the materials on record, the order of the learned Judge is modified and the petitioner is directed

to pay a sum of Rs.50,000/- to the respondent as advance as and when the respondent takes the house for rent and produces the rental agreement.

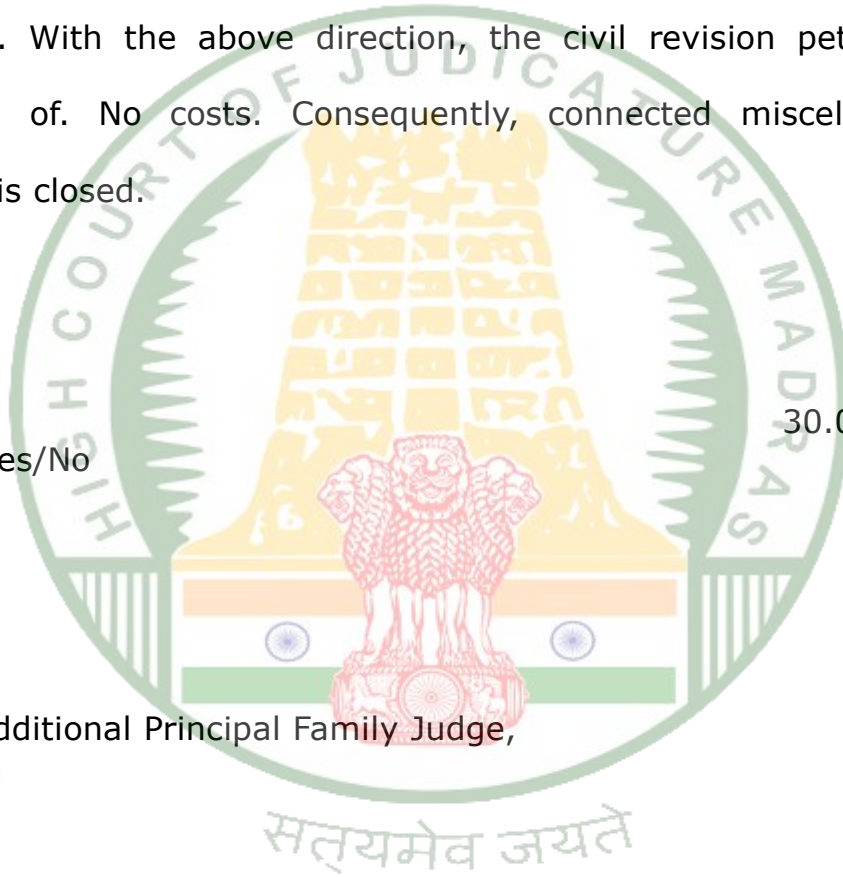
10. With the above direction, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

30.08.2017

Index: Yes/No
gsa

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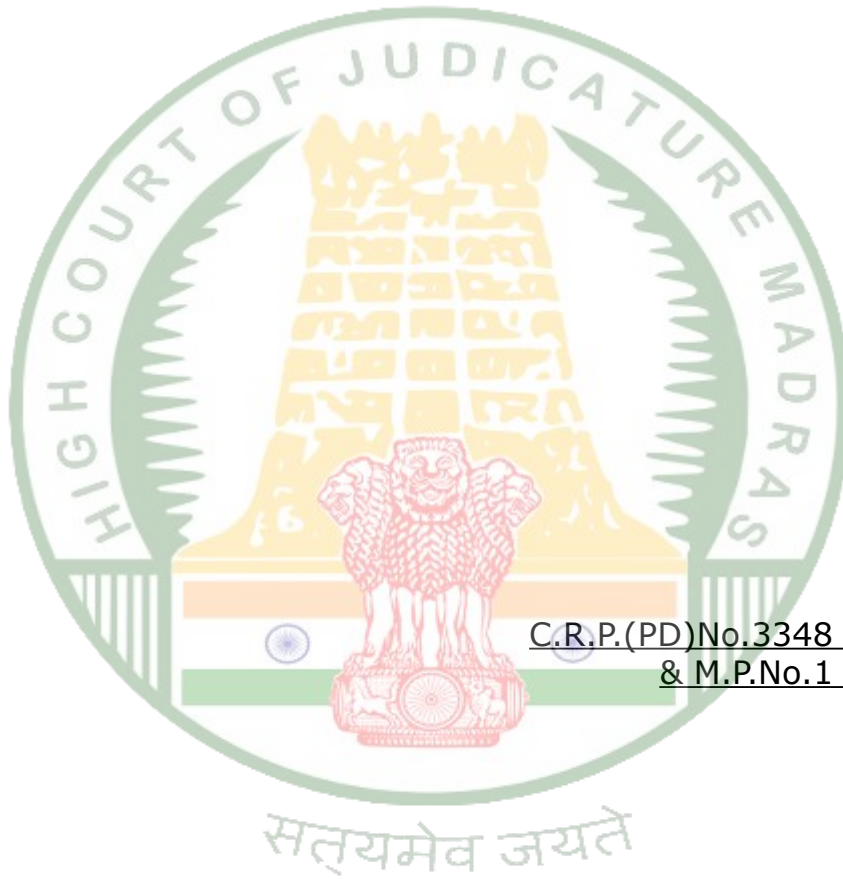
The II Additional Principal Family Judge,
Chennai.



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V.M.VELUMANI,J.

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