

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **22.03.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.4865 of 2011

J.Ramesh Babu : Petitioner
versus

1.R.Nirmala Devi

2.Nithya (minor)
(rep. By mother and Natural Guardian
1st respondent) : Respondents

PRAYER: Revision filed against the order dated 1.7.2011, in I.A.No.506 of 2008 in O.P.No.3715 of 2007 on the file of the I Additional Family Court, Chennai.

For petitioner :: Mr.V.P.Raju

For respondents :: Mr.K.Thilageswaran

ORDER

This civil revision petition is directed against the order dated 1 July 2011 in I.A.No.506 of 2008 in O.P.No.3715 of 2007, directing the petitioner to pay maintenance @ Rs.1500/- p.m to each of the respondents.

2. The first respondent filed the original petition in

O.P.No.3715 of 2007 under Section 9 of the Hindu Marriage Act. During the currency of the original petition, the respondents filed I.A.No.506 of 2008, claiming interim maintenance. The Trial Court, taking into account the means of the petitioner, and the evidence let in by the parties, awarded a sum of Rs.1,500/- to each of the respondents by way of interim maintenance. The said order is under challenge in this civil revision petition.

3. The learned counsel for the petitioner contended that the first respondent is living with another person and as such, he is not liable to pay her maintenance. According to the learned counsel, even the paternity is disputed and as such, he is not liable to pay maintenance to the second respondent.

4. I have also heard the learned counsel for the respondents.

5. The order under challenge in the civil revision petition is an interim order passed by the learned Trial Judge during the currency of the original petition. The respondents are entitled to get maintenance from the petitioner during the currency of the matrimonial proceedings notwithstanding the defence taken by the petitioner that the first respondent is living an adulterous life with another person and that the 2nd respondent , child is not born to him. These are all questions to be decided while

adjudicating the original petition in O.P.No.3715 of 2007. The respondents should be in a position to prosecute the proceedings in O.P.No.3715 of 2007. In case maintenance is not paid, it would not be possible for the respondents either to lead a normal life or to prosecute the original petition.

6. The learned Trial Judge, on the basis of the evidence produced by the parties, arrived at a conclusion that the petitioner is liable to pay @ Rs.1500/- to each of the respondents. The said order, passed on the basis of available materials does not call for interference, by exercising the revisional jurisdiction under Article 227 of the Constitution of India.

7. In the upshot, I dismiss the civil revision petition. No costs. Consequently, M.P.No.1 of 2011 is dismissed.

22.03.2017

Index:Yes/no
tar

To
The I Additional Family Court, Chennai.

K.K.SASIDHARAN, J.

(tar)

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