

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4663 of 2015 and
M.P.No.1 of 2015

Chenchiah @ Kaja Chenchiah ..Petitioner

vs

Ankamma ..Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 01.09.2015 made in I.A.No.65 of 2015 in H.M.O.P.No.342 of 2014 on the file of the Subordinate Court, Poonamallee.

For Petitioner : Mr.M.R.Khapali

For Respondent : Mr.G.Dilip Kumar

ORDER

Civil Revision Petition is filed against the fair and decreetal order dated 01.09.2015 made in I.A.No.65 of 2015 in H.M.O.P.No.342 of 2014 on the file of the Subordinate Court,

Poonamallee.

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

3. The petitioner is husband and respondent is wife. The petitioner filed H.M.O.P.No.342 of 2014 against respondent on the file of the Subordinate Court, Poonamallee, for divorce, on the ground of cruelty. The respondent filed I.A.No.65 of 2015 under Section 24 of the Hindu Marriage Act, for a direction to the petitioner to pay a sum of Rs.15,000/- per month towards interim maintenance to the respondent, Rs.15,000/- as litigation expenses, Rs.10,000/- per month for educational expenses of elder son and Rs.7,000/- per month for educational expenses of younger son.

4. According to the respondent, the petitioner is a building contractor and he is earning a sum of Rs.1,00,000/- per month and he owns plots at Mangadu and Coimbatore.

5. The petitioner filed counter affidavit and denied the

averments made in the application and submitted that he is working as Assistant to mason and getting Rs.200/- per day. He will get work only for twenty days in a month. He is a diabetic person and he has to spend Rs.2,000/- per month for medical expenses.

6. From the materials available on record, it is seen that both the petitioner and respondent have not filed any materials to substantiate their contention with regard to income of the petitioner. The learned Judge in the absence of evidence, fixed monthly income of the petitioner at Rs.50,000/- and directed the petitioner to pay Rs.5,000/- each to the respondent and her two children towards interim maintenance from the date of petition till the disposal of H.M.O.P. and directed the petitioner to pay a sum of Rs.5,000/- towards litigation expenses. The monthly income of the petitioner fixed by the learned Judge at Rs.50,000/- is without any basis and it is on higher side. The petitioner being husband of the respondent and father of two children is liable to maintain his wife and children.

7. Considering the contentions of both the petitioner and respondent, interim maintenance granted by the learned Judge is modified on the following terms: The petitioner is directed to pay a

sum of Rs.3,000/- per month to the respondent/wife, Rs.4,000/- to the first son and Rs.3,000/- to the second son and litigation expenses granted by the learned Judge is confirmed.

8. With the above modification, the Civil Revision Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

07.12.2017

Index:Yes/No

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To
The Sub-Ordinate Judge
Poonamallee.



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V.M.VELUMANI,J.



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