

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.(PD).No.1604 of 2016
and CMP.No.8723 of 2016

A.S.Moorthy

..Petitioner

Vs.

C.T.Usha

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 16.02.2016 made in IA.No.41 of 2015 in HMOP.No.33 of 2014 on the file of Sub Court, Tiruttani, Tiruvallur District.

For Petitioner

: Mr.M.S.Palaniswamy

For Respondent

: No Appearance

ORDER:

Notice has been served to the respondent, but none

<http://www.judis.nic.in> appeared for the respondent.

2. According to the revision petitioner, he has filed a petition in HMOP.No.33 of 2014 before the Sub Court, Tiruttani for divorce. In the aforesaid OP, the respondent has filed an application in IA.No.41 of 2015 praying to direct the revision petitioner to pay a sum of Rs.12,000/- per month as interim maintenance pending disposal of the HMOP. The court below has allowed the application by directing the revision petitioner to pay a sum of Rs.5,000/- per month. According to the revision petitioner, he was working as a part-time computer instructor in a Higher Secondary School, Chennai and drawing a consolidated salary of Rs.5,000/- per month when the impugned order was passed. Without considering that, the court below has fixed the entire amount as interim maintenance on assumption that in future, the salary of the revision petitioner would be increased to Rs.7,700/- per month. But, the petitioner has to maintain his aged parents and also to meet out the expenses for the parents from the aforesaid salary. Therefore, the revision petitioner was not in a position to pay Rs.5,000/- p.m. as interim maintenance to the respondent. Hence, the revision petitioner has filed the present Civil Revision Petition before this Court.

3. The learned counsel for the revision petitioner would

<http://www.judis.nic.in> submit that the respondent is working as a teacher in Ayyan

Vidyalay Matriculation School, Vellathur and getting the salary of Rs.10,000/- per month. As only meagre salary is received by the revision petitioner, the aforesaid fact can be decided at the time of hearing in the OP. Therefore, the order passed by the court below is liable to be set aside.

4. Considered the facts and circumstances of the case and perused the materials and the details of the salary certificate of the revision petitioner placed by the learned counsel for the revision petitioner before this Court.

5. The salary certificate reveals that the petitioner is receiving the salary of Rs.7,700/- at present. If the impugned order is complied with, he has to pay Rs.5,000/- to the respondent out of Rs.7,700/-. With the remaining meagre amount, the revision petitioner has to take care of his aged parents as well. Hence, the order of the court below is modified as follows:

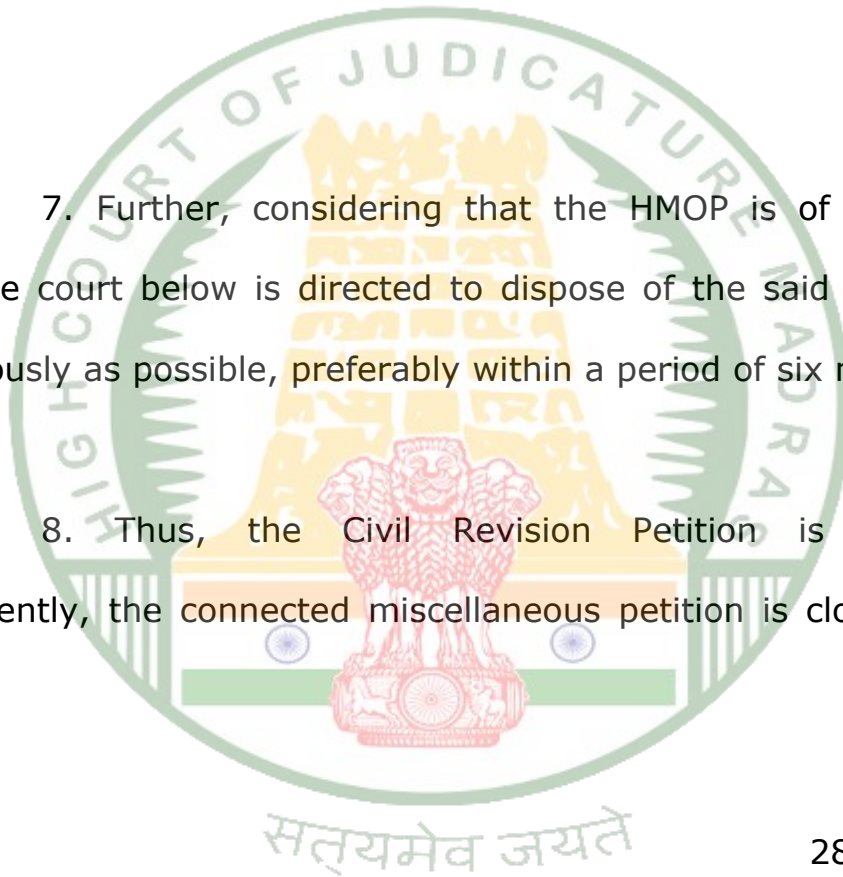
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(i) Without prejudice to the rights of the parties, pending disposal of the above HMOP, the revision petitioner shall pay Rs.1,000/- (Rupees One Thousand only) per month to the respondent every month.

6. Consequently, the revision petitioner is directed to pay the arrears of interim maintenance calculated from the date of petition till November 2017 to the respondent within a period of six weeks from the date of receipt of a copy of this Order and in future, Rs.1,000/- on or before 5th day of every succeeding calendar month.

7. Further, considering that the HMOP is of the year 2014, the court below is directed to dispose of the said HMOP as expeditiously as possible, preferably within a period of six months.

8. Thus, the Civil Revision Petition is allowed. Consequently, the connected miscellaneous petition is closed. No costs.



28.11.2017

Speaking/Non-speaking order

Index :Yes/No

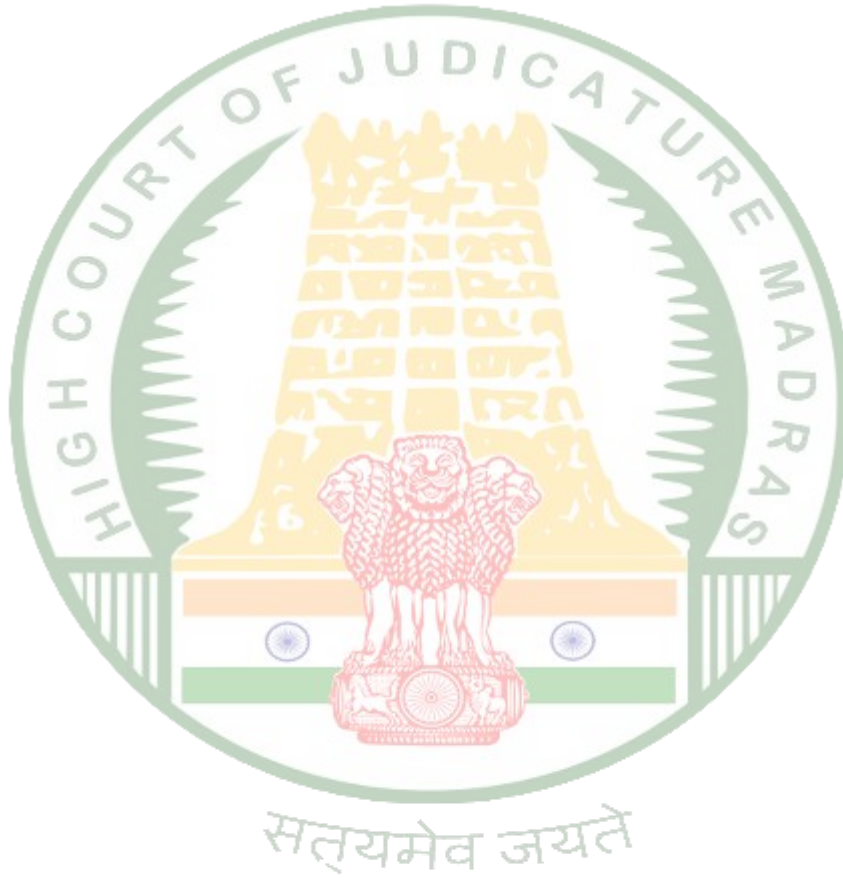
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To

The Sub Court,
Tiruttani, Tiruvallur District



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D.KRISHNAKUMAR.J,

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