

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

CORAM :

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

CRP.PD.No.237 of 2013

and

M.P.No.1 of 2013

K.Mohan

... Petitioner

Vs.

M.Chitrarasi

... Respondent

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 29.06.2012 made in I.A.No.1947 of 2010 in O.P.No.1725 of 2009 on the file of the I Additional Judge, Family Court, Chennai.

For Petitioner : Ms.Dhivya for M/s.P.Selvi

For Respondent : Mr.N.R.Anantha Rama Krishnan

ORDER

This Civil Revision Petition has been filed against the order dated 29.06.2012 made in I.A.No.1947 of 2010 in O.P.No.1725 of 2009 on the file of the I Additional Judge, Family Court, Chennai.

2. The petitioner/husband filed H.M.O.P.No.1725 of 2009 on the file of the I Additional Judge, Family Court, Chennai against the respondent/wife, for divorce.

3. The respondent filed counter and is contesting the H.M.O.P.No.1725 of 2009 and the respondent/wife filed I.A.No.1947 of 2010 claiming a sum of Rs.7,000/- per month towards interim maintenance and a sum of Rs.2,000/-towards litigation expenses. According to the respondent, the petitioner is working as driver in a private concern, getting a sum of Rs.15,000/- per month as salary and Rs.10,000/- as rental income. The respondent/wife also made various allegation against the petitioner.

4. The petitioner filed counter stating that he is working with individual as a driver and not in a private company and earning only Rs.7,000/- per month, he is not getting any rental income. On the other hand, he is residing in a rented house and he is paying Rs.2,500/- as rent and maintaining his aged parents. According to the petitioner, he was working in Middle-East country and use to send Rs.10,000/- to Rs.15,000/- to the respondent/wife every

month. Out of the said amount, she purchased various jewels and property in Kancheepuram on installment basis. The respondent/wife is having document of the petitioner's property. The respondent/wife has capacity to individually maintain herself. In addition, the petitioner also made allegations against the respondent/wife.

5. The learned counsel for the respondent has not disputed the fact that petitioner use to send a sum of Rs.10,000/- to Rs.15,000/- per month while he was working in the Middle-East country during the year 1999 to 2008 and the respondent purchased jewels and property in Kancheepuram.

6. Before the learned trial Judge, both petitioner and respondent did not let in any oral and documentary evidence. The learned Judge, considering the averments made in the affidavit and counter affidavit, ordered a sum of Rs.1,500/- p.m. as interim maintenance to the respondent and Rs.1,000/- p.m. each for two children. The learned Judge awarded Rs.2,000/- as litigation expenses on the ground that the respondent is coming from Bangalore to Chennai, to attend the Court proceedings in Chennai.

7. Against the said order dated 29.06.2012, made in I.A.No.1947 of 2010 made in H.M.O.P.No.1725 of 2009, the present Civil Revision Petition is filed.

8. I have heard Ms.Dhivya for M/s.P.Selvi, learned counsel appearing for the petitioner as well as Mr.N.R.Anantha Rama Krishnan, learned counsel appearing for the respondent and perused the materials available on record.

9. The learned counsel for the petitioner reiterated the averments in the counter filed in the said Interlocutory Application and Grounds of Revision and further contented that the respondent is residing only in Chennai and not in Bangalore and not coming from Bangalore to attend the Court proceedings.

10. The learned counsel for the respondent submitted that the amount awarded by the learned Judge is meagre and ought to have appreciate Rs.7,000/- as interim maintenance to the respondent/wife and the children and prayed for dismissal of the Civil Revision Petition.

11. Both the parties have not produced any document to substantiate the income of petitioner. The respondent/wife has not submitted her claim that the petitioner is working in a private company. The petitioner/husband has stated that he is working under individual person and earning only a sum of Rs.7,000/- p.m. and no contrary evidence was produced to the said statement. Similarly, the respondent has not given any details of the property owned by the petitioner and alleged rental income of Rs.10,000/- received by the petitioner.

12. In view of the same, considering the averments and counter affidavit filed by the petitioner in its entirety, the statement of the petitioner that he is earning a sum of Rs.7,000/- per month as salary and he is residing in a rented house and also maintaining aged parents, are acceptable. In view of receiving Rs.7,000/- as monthly salary of the petitioner, the order of the learned Judge is modified as Rs.2,000/- for the respondent and two children instead of Rs.3,500/- as ordered by the learned Judge and the litigation expenses of Rs.2,000/- ordered by the learned Judge is confirmed.

V.M.VELUMANI,J.

AT/kal

13.With the above modification, the Civil Revision Petition is partly allowed. Consequently, connected miscellaneous petition is closed. No costs.

06.10.2017

Index:Yes/No

AT/kal

To

The I Additional Judge,
Family Court,
Chennai.



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