

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P(PD)No.2542 of 2012
and
M.P.No.1 of 2012

Able

.. Petitioner

Vs

Viyakulamary

.. Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal orders dated 05.03.2012 passed in I.A.No.4554 of 2011 in D.O.P.No.75 of 2011 on the file of the learned Principal District Court, Cuddalore.

For Petitioner : Mr.P.Mani

For Respondent : Mr.K.Srinivasan

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ORDER

This revision is directed against an Order of the Learned Principal District Judge, Cuddalore District dated 05.03.2012 made in I.A.No.4554 of 2011 in D.O.P.No.75 of 2011.

2.The revision petitioner herein is also the petitioner in the above Divorce Petition in D.O.P.No.75 of 2011 filed as against the respondent /wife seeking for divorce.

3.In the said divorce proceedings, the respondent / wife filed a petition under Section 32 of Indian Divorce Act, seeking for an Interim maintenance.

4.The Learned Trial Judge on appraisal of the averments made in the above maintenance petition was pleased to allow the said petition by directing the revision petitioner to pay a sum of Rs.3000/- per month as interim maintenance. The said order is under challenge in this civil revision petition.

5.I heard Mr.P.Mani, learned counsel for the petitioner and Mr.K.Srinivasan, learned counsel for the respondent and perused the

entire materials available on record.

6.The Learned counsel for the petitioner would submit that the order arriving at Rs.3000/- as monthly maintenance is baseless for want of oral and documentary evidence.

7.It is also his contention that the respondent is financially placed in a better position than the revision petitioner and the petitioner suffer unemployment and depends upon his brother for his serious illness and medical ailments.

8.More so, the prime contention of the revision petitioner is that when the trial court itself arrived at a finding that the income of the revision petitioner would be around Rs.4000/-, the order of the trial court directing the revision petitioner to pay a sum of Rs.3000/- is exorbitant and arbitrary.

9.Per contra, the learned counsel for the respondent would submit that only on due appraisal of the fact that the respondent require financial assistance, the learned trial judge was pleased to award maintenance to be payable at Rs.3000/- and the said award is

just and fair. Accordingly he seeks for dismissal of this revision petition.

10. From the impugned order it is seen that the Learned Trial Judge has arrived at Rs.4000/- as monthly income of the revision petitioner. It is further found that there is no oral or documentary evidence adduced by the respondent's wife to show that the petitioner earn at a higher rate. Therefore in a provided condition that no evidence was let in by the wife to prove the financial capacity of the revision petitioner, this court finds that the order of the trial court arriving at Rs.4000/- as monthly income of the revision petitioner and directing him to pay Rs.3000/- is found to be onerous considering the financial capacity of the revision petitioner and not supported by any reason.

11. In the result:

(a) this Civil Revision Petition is partly allowed, by modifying the order that the interim maintenance of Rs.3000/- is reduced at Rs.1500/-;

(b) the revision petitioner/husband is directed to pay the amount of Rs.1,500/- towards monthly maintenance to the respondent/wife

from the date of order and to continue to pay till the disposal of O.P.

Consequently, connected miscellaneous petition is closed.

06.02.2017

vs

Note: Issue order copy on 13.12.2018

Index: Yes

Internet: Yes

To

The Principal District Judge,
Cuddalore District.



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M.V.MURALIDARAN,J.

VS



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