

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.381 of 2012
M.P.No.1 of 2012

R.Govindaraj .. Petitioner

Vs.

1. Krishnaveni
2. Minor. Gopika
Rep. By its Guardian Krishnaveni .. Respondents

PRAYER: Civil Revision Petitions filed Under Article 227 of the Constitution of India, against the fair and decreetal order dated 12.11.2011, made in I.A.No.6 of 2011 in H.M.O.P.No.2 of 2010, on the file of the Subordinate Court, Dharapuram.

For Petitioner : Mr.D.Krishnakumar

For RR1 & 2 : No appearance

ORDER

This civil revision petition has been copied against the fair and decreetal order dated 12.11.2011, made in I.A.No.6 of 2011 in H.M.O.P.No.2 of 2010, on the file of the Subordinate Court, Dharapuram.

2. The petitioner husband filed H.M.O.P.No.2 of 2010 against the first respondent wife for a divorce on the ground that the first respondent is mentally ill person. Pending H.M.O.P., the respondents herein have filed I.A.No.6 of 2011, on the file of the Subordinate Court, Dharapuram, claiming an interim maintenance of a sum of Rs.7,000/- to each of the first respondent and second respondent minor. The second respondent is second minor child of the petitioner and first respondent.

3. According to the first respondent, the petitioner is doing finance business and running a furniture Show Room in Kerala and is earning a sum of Rs.2,00,000/- per month and owns immovable property. The petitioner is not maintaining the respondents. The first respondent is not having any independent source of income. She is a coolie. In the circumstances, it is very difficult for the first respondent to maintain herself and minor child.

4. The petitioner filed counter affidavit and denied all the averments made by the respondents. Further, he submitted that he is working in a finance company and is earning Rs.3,000/- per

month. He is not owning any immovable property, as alleged by the first respondent. The first respondent is mentally ill person and has ill treated the children. Due to that, the petitioner has admitted the first child, by name Kanika in hostel attached to Bharathi Vidhyabavan School, Moolanur. The second respondent is alternatively maintained by parents of both the petitioner and respondent. The petitioner is having immovable property and cows. She is getting monthly income as Rs.20,000/-.

5. The learned Judge, considering the rival submissions of counsel for petitioner and respondents and taking note of the fact that both the parties have not filed any document to substantiate their case and since the petitioner is the husband of the first respondent and father of the second respondent, directed the petitioner to pay a sum of Rs.2,000/- to first respondent and Rs.1500/- to the second respondent.

6. Against the said order dated 12.11.2011, made in I.A.No.6 of 2011 in H.M.O.P.No.2 of 2010, the present civil revision petition has been filed by the petitioner.

7. Heard the learned counsel appearing for the petitioner and perused the materials available on record. Though notice has been served on the first respondent and their names are printed in the cause list, there is no representation either in person or through counsel.

8. When the civil revision petition is taken up for hearing, the counsel appearing for the petitioner submitted that the first respondent handed over the second respondent to the petitioner on 02.08.2013, before the Subordinate Judge, Dharapuram and from that date, the petitioner is maintaining the second respondent.

9. The learned counsel appearing for the petitioner submitted that the learned Judge, failed to see that the petitioner is earning Rs.3,000/- from finance company, where he is working. In the absence of any document by the respondent to substantiate the income of the petitioner, and without considering the document filed by the petitioner with regard to the properties of the first respondent, the learned Judge has ordered interim maintenance. These contentions are without any merits, in view of the averments made in the affidavit and counter affidavit. The petitioner himself

has admitted that the second respondent is maintained by his parents as well as parents of first respondent. The marriage between the petitioner and first respondent and second respondent, being the child is not disputed. As a husband of the first respondent and father of second respondent, he is liable to maintain his wife and child.

10. The learned Judge, considering these facts has directed the petitioner to pay interim injunction of Rs.2,000/- to the first respondent and a sum of Rs.1,500/- to second respondent, even though the respondents claimed Rs.7,000/-. In these circumstances, there is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 12.11.2011.

11. In the result, the civil revision petition is dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

02.08.2017

Index : Yes/No

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V.M.VELUMANI, J.

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To

The Subordinate Judge, Dharapuram



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