

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4307 of 2012
M.P.No.1 of 2012

M.Selvanayagi .. Petitioner

Vs.

P.Senthilkumar .. Respondent

PRAYER: Civil Revision Petitions filed Under Article 227 of the Constitution of India, against the fair and decreetal order dated 29.03.2012, made in I.A.No.1 of 2008 in H.M.O.P.No.5 of 2008, on the file of the Subordinate Court, Harur.

For Petitioner : Mr.P.Mani

For Respondent : Mr.V.Lakshminarayanan

सत्यमेव जयते
ORDER

This civil revision petition has been filed against the fair and decreetal order dated 29.03.2012, made in I.A.No.1 of 2008 in H.M.O.P.No.5 of 2008, on the file of the Subordinate Court, Harur.

2. The petitioner/wife is the petitioner and respondent/husband is the respondent in M.O.P.No.43 of 2005, on the file of the Subordinate Court, Dharmapuri (transferred to Subordinate Court, Harur and renumbered as H.M.O.P.No.5 of 2008). The petitioner filed the said petition for divorce on the ground of cruelty and desertion. The petitioner filed I.A.No.25 of 2005 on the file of the Subordinate Court, Dharmapuri (transferred to Subordinate Court, Harur and renumbered as I.A.No.1 of 2008), claiming an interim maintenance of Rs.10,000/- per month for two children and a sum of Rs.5,000/- towards litigation expenses.

3. According to the petitioner, respondent is working as a District Revenue Officer and is earning Rs.20,000/- per month and is not paying any amount for maintaining the petitioner and minor children. The respondent filed counter affidavit and submitted that the petitioner is working as a Physical Director in Government Girls Higher Secondary School, Harur and is earning more than Rs.44,000/- per month. The respondent paid a sum of Rs.4,00,000/- as tuition fees and Rs.1,00,000/- as Hostel fees for his first daughter, named Shalini for her admission in first year

MBBS at SRM Medical College and he is maintaining the first daughter. The parties did not let in any oral and documentary evidence before the learned Judge. The learned Judge examined both the minor daughters.

4. The first daughter Shalini informed the learned Judge that her father/respondent got admission for her in SRM Medical College, Chennai and is maintaining her. The second daughter, Yamini informed the learned Judge that the first daughter is being maintained by her father.

5. The learned Judge, considering the fact that the petitioner is working as a Physical Director in a Government Girls Higher Secondary School and respondent is working in Secretariat and both of them are earning more than Rs.50,000/-, dismissed the application for interim maintenance.

6. Against that order of dismissal dated 29.03.2012, made in I.A.No.1 of 2008 in H.M.O.P.No.5 of 2008, the present civil revision petition is filed by the petitioner.

7. Heard the learned counsel appearing for both sides and perused the materials available on record.

8. The spouse is entitled to claim interim maintenance, pending H.M.O.P, if she or he is unable to maintain herself/himself. When considering the application for interim maintenance, the Court has to consider whether the person who has filed the application for interim maintenance has any independent income and whether such income is sufficient for maintaining themselves. The Court has to fix the quantum of maintenance, taking into account, the income if any earned by the person claiming interim maintenance. In the present case, it is not in dispute that the petitioner is working as Physical Director in a Government Girls Higher Secondary School and is earning more than Rs.50,000/-. It is also not in dispute that the respondent is maintaining the first daughter. The learned Judge, considering the income earned by the petitioner, dismissed the application filed by her. The said order is as per provision under Section 24 of The Hindu Marriage Act. There is no irregularity or illegality, warranting interference with the order of the learned Judge dated 29.03.2012.

8. The learned counsel appearing for the respondent submitted that already H.M.O.P.No.5 of 2008 filed by the petitioner for restitution of conjugal rights was dismissed and H.M.O.P.No.6 of 2008 for granting divorce was allowed on 25.10.2013.

9. Accordingly, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

04.08.2017

Index : Yes/No
gsa

To

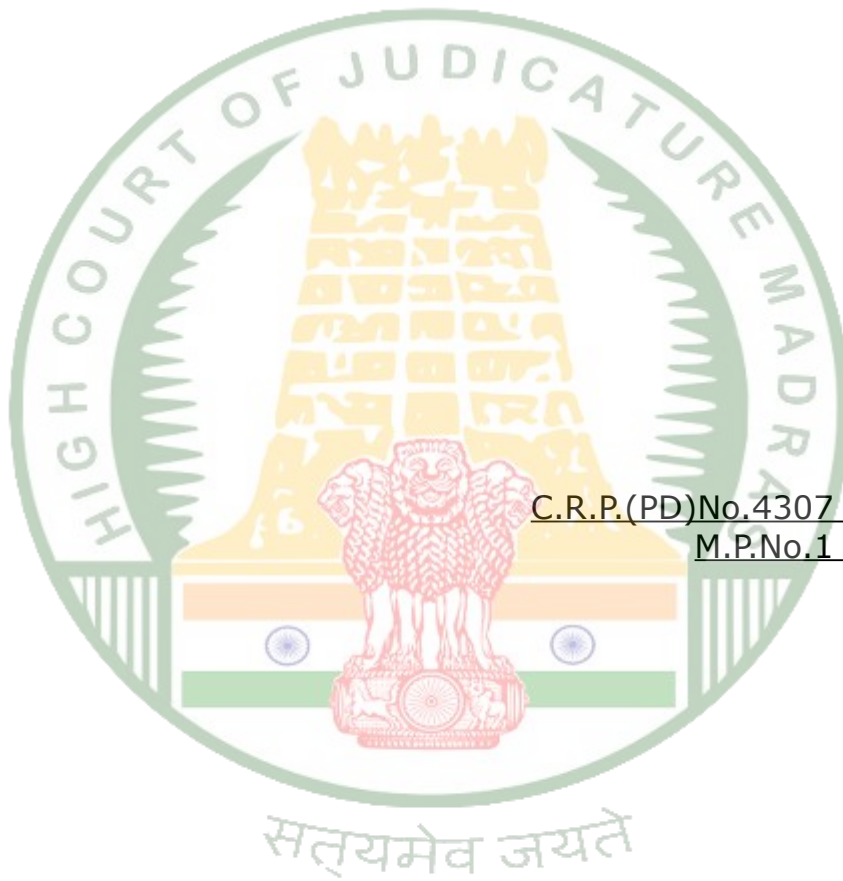
The Subordinate Judge, Harur



WEB COPY

V.M.VELUMANI, J.

gsa



C.R.P.(PD)No.4307 of 2012
M.P.No.1 of 2012

WEB COPY

04.08.2017