

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.10.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM  
and  
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

C.M.A.No.1397 of 2017

Nancy Karthikeyan .. Appellant

Vs

Arun Amarson .. Respondent

Civil Miscellaneous Appeal preferred under Section 19 of Family Courts Act, 1984, against the fair and decreetal order dated 16.02.2016 made in I.A.No.2688 of 2011 in O.P.No.226 of 2011 on the file of the Principal Family Court, Chennai.

For Appellant : Ms.P.Veena Suresh  
For Respondent : Mr.T.Kalaiselvan

**J U D G M E N T**

[Judgment of the Court was delivered by A.SELVAM, J.]

This Civil Miscellaneous Appeal has been directed against the order dated 16.02.2016 passed in I.A.No.2688 of 2011 in O.P.No.226 of 2011 by the Principal Family Court, Chennai.

2. The respondent herein, as petitioner, has filed O.P.No.226 of

2011, on the file of the trial Court, for getting a relief of divorce, wherein, the present appellant has been shown as respondent. During pendency of the same, the present appellant, as petitioner, has filed I.A.No.2688 of 2011 under Section 24 of the Hindu Marriage Act, 1955, praying to direct the respondent therein to give interim monthly maintenance of Rs.1,00,000/- per month and also Rs.25,000/- towards litigation expenses.

3. The trial Court, after considering the contentions put forth on either side, has directed the respondent therein, to give a sum of Rs.30,000/- per mensem towards interim monthly maintenance from 16.02.2016 [date of order]. Against the order passed by the trial Court, the present Civil Miscellaneous Appeal has been filed by the petitioner, as appellant.

4. The only contention put forth on the side of the appellant is that the trial Court ought to have directed the respondent to pay interim monthly maintenance at the rate of Rs.30,000/- per mensem from the date of filing of I.A.No.2688 of 2011, but erroneously the trial Court has directed the respondent to give interim monthly maintenance only from the date of order [16.02.2016] and further on

03.02.2016, the main petition has been dismissed for default and therefore, the date fixed in the order is liable to be modified.

5. The learned counsel appearing for the respondent has contended to the effect that both the appellant and respondent have lived as husband and wife only for nine months and during that period, the appellant has tortured the respondent and under such circumstances, for getting divorce, O.P.No.226 of 2011 has been filed and further on 03.02.2016, the main petition itself has been dismissed. Under the said circumstances, the trial Court has rightly fixed the date for giving interim monthly maintenance and the same does not require any interference.

6. It is an admitted fact that O.P.No.226 of 2011 has been filed by the respondent, as petitioner, for getting divorce. During pendency of the same, I.A.No.2688 of 2011 has been filed by the present appellant under Section 24 of the Hindu Marriage Act, 1955, for getting interim monthly maintenance.

7. The trial Court has directed the respondent to give interim

monthly maintenance at the rate of Rs.30,000/- per mensem from the date of order [16.02.2016].

8. It is agreed by both parties that the main petition itself has been dismissed on 03.02.2016. Since the main petition itself has been dismissed on 03.02.2016, the petitioner is entitled to get interim monthly maintenance from the date of filing of I.A.No.2688 of 2011 till 03.02.2016, the date on which, the main petition has been dismissed for default and under such circumstances, the impugned order passed by the trial Court is liable to be modified as stated infra.

9. In fine, this Civil Miscellaneous Appeal is allowed without cost. The date fixed by the trial Court in the impugned order is modified as follows :

The respondent is directed to pay interim monthly maintenance of Rs.30,000/- to the appellant/petitioner from the date of filing of I.A.No.2688 of 2011 till 03.02.2016, the date on which O.P.No.226 of 2011 is dismissed for default.

No costs.

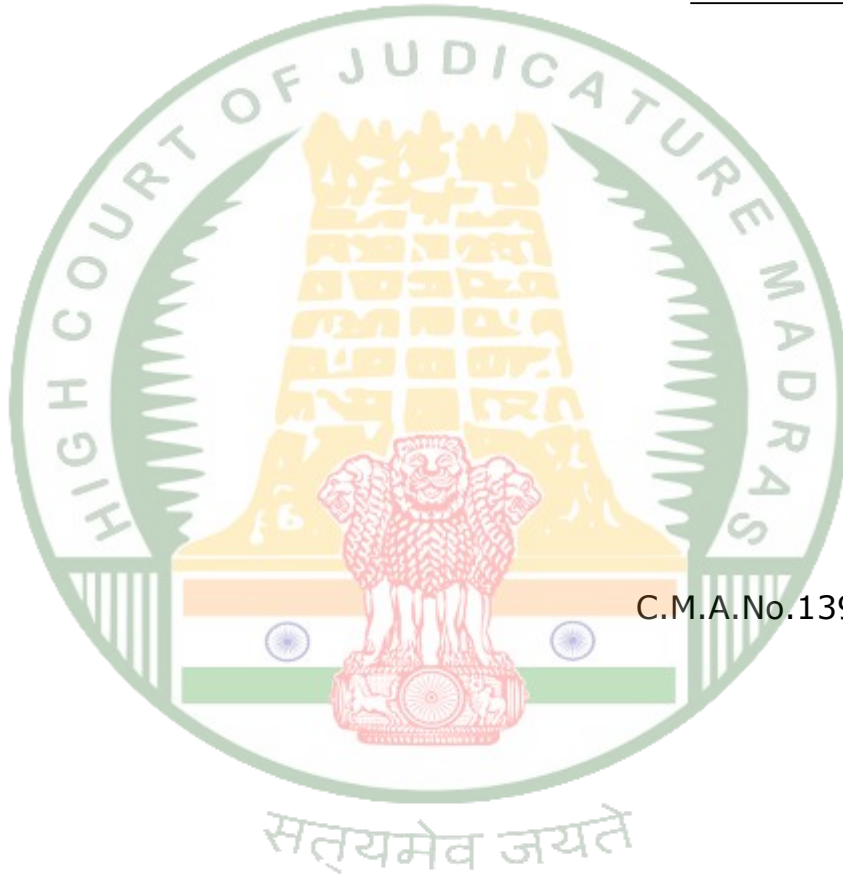
[A.S., J.] [P.K., J.]  
11.10.2017

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To  
The Principal Family Court,  
Chennai.

A.SELVAM, J.  
and  
P.KALAIYARASAN, J.

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C.M.A.No.1397 of 2017

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