



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2017

CORAM :

WEB COPY

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

C.R.P (PD) (MD) No.1183 of 2017

R.Selvasingh Manuvel : Petitioner

vs.

H.Mary Chitra : Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 28.06.2016 in I.A.No.218 of 2015 in I.D.O.P.No.422 of 2014 on the file of District Judge of Kanyakumari District at Nagercoil.

For Petitioner : Mr.S.Sureshkumar

ORDER

This Revision Petition is directed against the order passed by the District Judge, Kanyakumari in I.A.No.218 of 2015 in I.D.O.P.No.422 of 2014.

2. The brief fact of the case is that the revision petitioner herein, has filed an I.D.O.P No. 422 of 2014 seeking dissolution of marriage under Section 10(x) of the Indian Divorce Act. In the said pending I.D.O.P., the respondent/wife has filed an application under Section 36 of Indian Divorce Act to pass an order of interim alimony pendente lite and litigation expenses. The Court below after considering the rival contention of the I.A.No.218 of 2015 as follows:-

"In the result, this petition is partly allowed and the respondent is directed to pay a sum of Rs. 6,000/- per month as interim alimony to the petitioner from the date of filing of the I.D.O.P. Petition till the disposal of the petition and Rs.25,000/- as litigation expenses, failing which the I.D.O.P.No. 422 of 2014 is to be dismissed."

3. It is stated that the revision petitioner has not complied the above condition and hence, I.D.O.P. No. 422 of 2014 was dismissed as stated above. The present revision petition is filed on the ground that the respondent herein, being a M.B.A. Graduate and earning a sum of Rs.25,000/- per month and awarded sum of Rs.6,000/- towards interim alimony is excessive and unwanted.



4. The contention of the revision petitioner is that the respondent being a highly educated and in a position to earn. The Court below ought not to have awarded interim alimony. The submission of the revision petitioner is misconceived. Just because the respondent/wife is capable of earning, the revision petitioner/husband cannot take the plea that he is not liable to pay the award to his wife and child born to her. In this case, this Court also find that a female child was born to parties and is in the custody of the respondent.

5. While so, this Court finds no plausible reason to interfere with the order passed by the Court below regarding quantum of interim maintenance.

6. The learned counsel for the revision petitioner submits that he is ready to pay the interim maintenance fixed by the Court below in two installments. So he may be permitted to contest the O.P on merits which has been dismissed for default for not paying the interim maintenance award.

7. If the revision petitioner is interested in contesting the O.P. on merits, it is the legal duty and obligation to pay the interim maintenance and without paying the interim maintenance, he has no right to contest the I.D.O.P. No. 422 of 2014. If the revision petitioner wants to get his O.P restored on the file, he may do so on depositing the arrears and litigation expenses in full in the C.C.D. account of the District Court, Kanyakumari along with the application for restoring the I.D.O.P.No.422 of 2014 on or before 30.07.2017.

8. On such deposit, the Court below shall entertain the restoration application, if it is otherwise in the order.

9. With the above liberty, this Civil Revision Petition is dismissed. No costs. Consequently, C.M.P.(MD)No.5544 of 2017 is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

The District Judge, Kanyakumari District at Nagercoil

+One cc to Mr.S.Suresh Kumar, Advocate, SR.No.61777

mrn/gns

RL/3C/2P/KP/SAR1/12/7/2017