



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.258 of 2017 (NPD)

and

C.M.P(MD)No.1201 of 2017

Sakthivel .. Petitioner/Respondent/Respondent

Vs.

Rajeswari .. Respondent/Petitioner/Petitioner

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the revision and set aside the order, dated 20.12.2016 made in I.A.No.77of 2016 in HMOP No.78 of 2016 on the file of the Sub Court, Theni.

For Petitioner : Mr.PT.S.Narendravasan

For Caveator/

Respondent :Mr.SU.Balasubramaniam

ORDER

This petition has been filed by the petitioner to set aside the order, dated 20.12.2016 made in I.A.No.77of 2016 in HMOP No.78 of 2016 passed by the Sub Court, Theni.

2.The petitioner is the respondent in H.M.O.P.No.78 of 2016. The respondent filed H.M.O.P.No.78 of 2016 before the Sub Court, Theni for Restitution of Conjugal Rights. The respondent also filed I.A.No.77 of 2016 for interim maintenance of Rs.10,000/- per month and Rs.10,000/- towards litigation expenses.

3.According to the respondent/wife, the petitioner is working as General Manager in Mahendra and Mahendra Company at Chengalpat and getting a monthly salary of Rs.70,000/-. The petitioner has a flat worth Rs.50,00,000/- and owning two other houses worth Rs.50,00,000/- in Jakkampatti, Theni District. The respondent is not having any independent income and she is depending on her parents for maintenance. In the circumstances, it is the duty of the petitioner to maintain the respondent.

4.The petitioner filed counter affidavit and denied all the averments made by the petitioner. The petitioner has stated that he is working as General Manager and he is only an Engineer in a Small Company. He is meeting out the Educational expenses of his brother and sister and maintain his parents. The respondent's

father is having two Power Looms and earning Rs.24,000/- as salary. The brother of respondent is working in Anandam Textiles and earning. The respondent is capable of maintaining herself.

5.The learned Judge considering the averments made in the affidavit and counter affidavit and materials on record ordered the petition and directed the petitioner to pay a sum of Rs.5,000/- per month towards interim maintenance and Rs.3,000/- towards litigation expenses holding that it is the duty of the petitioner to maintain his wife.

6.Against the said order of allowing the I.A.No.77 of 2016 by the Sub Judge, Theni, the petitioner has come out with the present Civil Revision Petition.

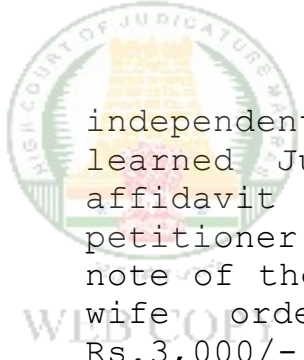
7.The learned counsel for the petitioner reiterated the grounds and counter affidavit filed in support of the petition. The learned counsel for the petitioner submitted that the respondent and her family is leading a sophisticated life. The learned Judge granting Rs.5,000/- to maintenance is on higher side.

8.The learned counsel for the Caveator/respondent submitted that the learned Judge considering the facts and circumstances of the case in proper perspective ordered interim maintenance of Rs.5,000/-. The learned Judge has given proper reason for ordering Rs.5,000/-.

9.I have heard the learned counsel appearing for the petitioner and the learned counsel appearing for the caveator/respondent and also perused all the materials available on record.

10.The respondent filed an application in I.A.No.77 of 2016 for interim maintenance and litigation expenses. According to the respondent, the petitioner is working as General Manager in Mahendra and Mahendra Company at Chengalpat and earning Rs.70,000/- per month. The petitioner denied the said allegations and stated that he is working only as an Engineer. In the grounds of revision, the petitioner has stated that he is working in a Small Company.

11.From the records, it is seen that the petitioner has not filed any salary certificate. According to the petitioner, the respondent is not entitled to maintenance on the ground that respondent and her family is affluent family and is leading sophisticated life. The petitioner has stated that he is repaying the loan and maintaining his parents and meeting out the expenses of his brother and sister. The petitioner except stating that respondent's father and brother are getting income every month, has not stated that respondent is having



independent income to support herself. In the circumstances, the learned Judge has considered all the averments made in the affidavit and counter affidavit and also the fact that the petitioner has not filed any document to show his salary and taken note of the fact, it is the duty of the petitioner to maintain his wife ordering Rs.5,000/- towards monthly maintenance and Rs.3,000/- toward litigation expenses. These amounts are not excessive, but only reasonable. There is no illegality or irregularity warranting interference by this Court.

12. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To
The Subordinate Judge,
Theni.

Copy to:

The Record Keeper, VR Section,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.S.U.Balasubramanian, Advocate, SR No.7021

C.R.P (MD) No.258 of 2017 (PD)
08.02.2017

Am
MS/CM.MSA/6.3.2017/3P.4c