



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.2673 of 2016 (PD)

and

C.M.P (MD) No.12574 of 2016

K.Kathiravan

.. Petitioner/Appellant/Respondent/
Respondent

Vs.

A.Sudha

.. Respondent/Respondent/Petitioner/
Petitioner

PRAYER: Civil Revision Petition is filed, under Article 227 of Constitution of India, against the fair and decreetal order, dated 31.08.2016 made in HM(CMA) No.12 of 2016 on the file of the Principal District Court, Tuticorin confirming the fair and decreetal order, dated 12.12.2016 made in I.A.NO.83 of 2013 in HMOP No.238 of 2012 on the file of the Sub Court, Tuciroid.

For Petitioner : Mr.S.Sankarapandian

ORDER

This petition has been filed by the petitioner against the fair and decreetal order, dated 31.08.2016 made in HM(CMA) No.12 of 2016 passed by the Principal District Court, Tuticorin confirming the fair and decreetal order, dated 12.12.2016 made in I.A.NO.83 of 2013 in HMOP No.238 of 2012 passed by the Sub Court, Tuciroid.

2.The petitioner/husband filed H.M.O.P.No.238 of 2012 against the respondent/wife, for divorce. The respondent/wife filed counter statement and the said H.M.O.P., is pending for trial. In the meantime, the respondent filed I.A.No.83 of 2013 for interim maintenance of Rs.25,000/- for herself and her minor daughter and another sum of Rs.25,000/- for litigation expenses. According to the respondent, the petitioner is working in the I.T Company and earning Rs.75,000/- per month. The respondent is un-employed and residing with her parents along with her minor child. Her parents are maintaining herself and her child.

3.The petitioner filed counter affidavit and denied all the averments made in the affidavit and stated that the respondent is well educated person and she will get job easily. The petitioner has to maintain his aged mother and petitioner has to pay Equal Monthly Instalment (E.M.I) of Rs.25,000/- every month for the loan taken by him. In addition to that there are other deductions in the salary

and prayed for dismissal of the application for interim maintenance.

4.The learned Judge considering the averments made in the affidavit and counter affidavit and materials on record and arguments of both parties passed an order directing the petitioner to pay a sum of Rs.7,500/- per month each to the respondent and her minor child and Rs.15,000/- for litigation expenses.

5.Against the said order, the petitioner filed HMCMA No.12 of 2016 before the Principal District Court, Tuticorin. The petitioner raised very same grounds as raised in the counter affidavit filed in I.A.No.83 of 2013 and in addition to that he has stated that he has left his job from Polaris Software Lab Limited on 23.09.2011 and he is residing in Tirunelveli without any job. The respondent filed written arguments.

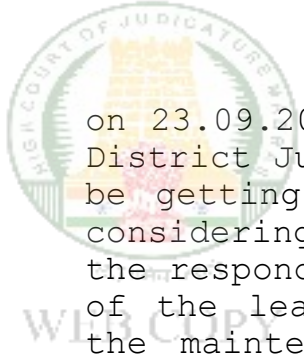
6.The learned Judge considering the averments made in the affidavit and written arguments filed by the respondent and also considering the order passed by the learned Sub Judge, Tuticorin in I.A.No.83 of 2013, dismissed the HMCMA No.12 of 2016 confirming the order of the learned Sub Judge, Tuticorin holding that the respondent is entitled to get maintenance from the petitioner.

7.Against the said order of dismissal, the petitioner has filed the present Civil Revision Petition.

8.The learned counsel appearing for the petitioner submitted that both courts below failed to see that the respondent is well educated person and she could very well get job and maintain herself and child. Only to harass the petitioner, she filed a petition for interim maintenance. The respondent has left the matrimonial home without any valid reason. The petitioner is taking steps for custody of the minor child and to maintain the minor child. The learned Judge failed to see that the petitioner left the job in Polaris Software Lab Limited on 23.09.2011 and not in correct, in confirming the order passed by the learned Sub Judge, Tuticorin in I.A.No.83 of 2013 granting maintenance. Both courts below have not properly appreciated the facts while granting interim maintenance to the respondent and her minor child and prayed for allowing the Civil Revision Petition.

9.I have heard the learned counsel appearing for the petitioner and also perused the entire materials on record.

10.From the materials on record, it is seen that the petitioner is employed as a Team Leader for Polaris Software Lab Limited, Chennai and he is earning Rs.8,72,313/- per year as seen from Form-16 filed by the respondent into Court. The petitioner has not proved that the respondent is employed and has independent income. Even though, the petitioner has stated that the petitioner has left job



on 23.09.2011 and is residing in Tirunelveli, the learned Principal District Judge, Tuticorin has rightly held that the petitioner would be getting more income, then in the year 2011. The learned Judge considering the status of the petitioner and failure to prove that the respondent is having independent income, has confirmed the order of the learned Sub Judge, Tuticorin granting interim maintenance, the maintenance ordered is not excessive. Therefore, the order passed by the Courts below is confirmed. Both the Courts below have properly appreciated the facts of the case and ordered interim maintenance.

11. In the result, the Civil Revision Petition is dismissed. The HMOP is of the year 2012. The learned Sub Judge, Tuticorin, is directed to dispose H.M.O.P.No.238 of 2012 as expeditiously as possible, in any event not later than 30th June, 2017, provided, the petitioner pays the entire arrears of Interim maintenance ordered by Courts below. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge, Tuticorin.
2. The Subordinate Judge, Tuticorin.

Copy to:
The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

Am
MAS/SV-MMS:06.02.2017:3P/4C

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