

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.4348 of 2017

ORDER:

This is a civil revision petition filed, under Article 227 of the Constitution of India, by the unsuccessful petitioner/respondent/husband assailing the order, dated 27.06.2017, of the learned Judge, Additional Family Court, City Civil Court, Hyderabad, passed in I.A.No.440 of 2017 in O.P.No.4 of 2016.

2. I have heard the submissions of Sri E.Srimanth Reddy, learned counsel for the revision petitioner/husband, and of Sri S.Sridhar, learned counsel for the respondent/wife. I have perused the material record.

3. In a matrimonial OP filed by the revision petitioner-husband ("husband" for brevity), the respondent-wife ("wife" for brevity) filed the afore-stated Interlocutory Application seeking interim maintenance @ Rs.50,000/- per month pending final disposal of the Original Petition. The husband resisted the said application by filing a counter. The Court below by the orders impugned in this revision awarded interim maintenance @ Rs.30,000/- per month to the wife and her daughter and gave further directions with regard to payment of the said interim maintenance as well as arrears. Aggrieved thereof, the husband is before this Court.

4. Shorn of unnecessary details with regard to the contentions and issues, which fall for consideration in the main OP, the case of the wife, in brief, is as follows: "After disputes and estrangement between the spouses, the Wife is living separately with her parents.

She is looking after the welfare of the daughter who is under her care and custody. She has no income or source of income. At present, she is living at the mercy of her parents. The revision petitioner-husband neglected to maintain her and her daughter. In the present day cost of living, she and her daughter require Rs.50,000/- per month for their sustenance and well being.”

5. Per contra, the case of the husband, in brief, is as follows:

“Since 31.07.2015, the wife and her daughter are living in the parental house of the wife. This respondent [husband] is employed as an Accounts Officer in an International School on monthly gross salary of Rs.63,800/-. He is spending Rs.20,000/- on his parents. He requires Rs.20,000/- to meet various other expenses. After deducting the said expenditure, he will be left with Rs.15,000/- per month. Therefore, he is ready and willing to pay Rs.10,000/- per month to his wife and daughter towards interim maintenance. The respondent-wife is running a boutique viz., ‘Experiment Designer Boutique’ in Bowenpally and selling some products online and earning more than the income of the husband from the said business. Therefore, the petition is liable to be dismissed.”

6. At the hearing, the learned counsel for both parties reiterated the contentions of the respective parties.

7. The learned counsel for the petitioner-husband would submit that except the salary from the temporary job, the husband is not having any other income or sources of income and that admittedly, he does not own any properties and hence, he is not in a position to pay Rs.30,000/- per month, which was awarded by the Court below. Alternatively, the learned counsel for the revision petitioner-husband

would submit that in case this Court is not inclined to accept the submissions of the husband, the revision petitioner-husband is prepared to pay Rs.20,000/- per month towards interim maintenance of the wife and daughter pending final disposal of the OP, however, without prejudice to his rights and contentions in the matter.

8. In reply, the learned counsel for the respondent-wife would submit that the maintenance shall be awarded keeping in view the financial and social status of the family and also the present day cost of living and that the trial Court has taken into consideration all the factual and legal aspects in correct perspective and accordingly, awarded interim maintenance @ Rs.30,000/- per month in tune with the facts and the family financial and social status. He would further submit that the said amount is required in the present day cost of living for the sustenance of the wife and daughter and to enable them to live in reasonable comfort and with dignity. He would also submit that the parents of the revision petitioner are having properties and that the rents received from the said properties are being enjoyed by the husband and that in view of the income from the properties of the parents, and the further fact that he has no obligation to maintain the parents, the interim maintenance awarded @ Rs.30,000/- per month to the wife and daughter is fair and reasonable and hence, the order impugned does not warrant interference.

9. I have given earnest consideration to the facts and submissions. In view of the facts and submissions, the revision case can be disposed without much dilation on various contentious aspects as the order awarding interim maintenance is always subject to final determination of the rights of the parties in the main OP and as it is

axiomatic that the provision for interim maintenance is only an interim measure. The law is well settled that the maintenance awarded shall be adequate for sustenance, food, clothing and shelter besides essential incidental expenses. The maintenance awarded to a child must encompass the educational expenses of the child, if the child is a school going child. While awarding maintenance the social status, economic and living conditions of the family will have to be taken into consideration; and, the maintenance awarded to the wife and daughter must be sufficient to enable them to live in reasonable comfort and with dignity as rightly contended. Be that as it may, the relationship between the parties is admitted. Minor daughter is in the custody of the wife is undisputed. It is also not established that the wife is having her own income or sources of income. It is fairly submitted that at this stage of the matter, the wife is not in a position to produce any documentary or other evidence to show that the husband owns properties in his name. It is fairly conceded that it is borne out by the record that the parents of the husband own properties and, therefore, he need not contribute any money towards their maintenance. His gross salary is Rs.63,800/-, as is evident from exhibit R1, salary slip. After the statutory and other permissible deductions, his net salary can be determined for the present purpose at about Rs.50,000/- per month. At this stage, there is no evidence brought on record to show that he has properties of his own and other sources of income. In that view of the matter, this Court is of the considered view that the interim maintenance awarded @ Rs.30,000/- is on the higher side and that it requires downward revision, in the facts and circumstances of the case.

10. On the above analysis and on further consideration of the fair alternative submission of the husband that he would pay Rs.20,000/- to the wife and daughter towards interim maintenance, without prejudice to his rights and contentions in the main OP, this Court holds that the ends of justice would be met if the said amount is accordingly awarded as interim maintenance to his wife and daughter, subject, however, to the final decision in the OP.

11. Resultantly, the Civil Revision Petition is partly allowed and the interim maintenance awarded @ Rs.30,000/- per month to the respondent/wife and daughter is accordingly reduced to Rs.20,000/- per month. It is made clear that the other terms and conditions insofar as the payment of arrears of interim maintenance and future monthly interim maintenance during the pendency of the OP as mentioned in the impugned orders of the trial court, shall hold good. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M.SEETHARAMA MURTI

September 6, 2017
Lmv