

HON' BLE SRI JUSTICE T. SUNIL CHOWDARY

CIVIL REVISION PETITION No.1664 of 2016

ORDER:

This revision petition is filed under Article 227 of the Constitution of India challenging the orders in I.A.No.544 of 2015 in O.P.No.57 of 2014 on the file of the Court of Senior Civil Judge, Amalapuram, East Godavari District.

The contention of the learned counsel for the petitioner is that the trial Court granted interim maintenance in favour of respondent without taking into consideration the financial position of the petitioner. He further submits that the trial Court ought not to have granted an amount of Rs.5,000/- p.m. towards legal expenses.

Per contra, learned counsel for the respondent submitted that at present, the respondent is residing at Hyderabad along with her son. He further submits that there is no illegality in the orders of the trial Court warranting interference of this Court.

A perusal of the record reveals that the petitioner is the husband of the respondent. The petitioner herein filed O.P.No.57 of 2014 on the file of the Senior Civil Judge, Amalapuram, under Section 13(1)(a) and (b) of the Hindu Marriage Act, against the respondent for dissolution of marriage. Pending O.P.57 of 2014, the respondent herein filed I.A.No.544 of 2015 seeking interim maintenance. The trial Court allowed the petition in part by granting Rs.5,000/- p.m. towards legal expenses and Rs.10,000/- p.m. towards maintenance from the date of petition till the date of order and Rs.5,000/- p.m. towards legal expenses

and Rs.15,000/-p.m. towards maintenance from the date of order till the disposal of O.P.No.57 of 2014.

A perusal of the record reveals that out of lawful wedlock, the petitioner and respondent were blessed with a son, who is aged about six years. Both the counsel with one voice submitted that the respondent has been looking after the welfare of their son. During the course of enquiry, the petitioner herein filed Exs.R1 to R4 to dislodge the case of the respondent herein. As per Ex.R4 salary certificate, the petitioner is getting a gross salary of Rs.1,00,000/- and net salary of Rs.81,160/- per month.

While deciding interim maintenance petitions, the Court has to take into consideration the financial status of the parties to the proceedings. Absolutely there is no material on record to establish that the respondent herein is having any source of income. There is a social and moral obligation on the part of the petitioner to look after the welfare of his wife and son. The pre-dominant contention of the learned counsel for the petitioner is that the trial Court granted Rs.5,000/- p.m. towards legal expenses which is on higher side. The petitioner himself filed O.P.No.57 of 2014 against the respondent for dissolution of marriage. In such circumstances, the respondent was forced to engage a counsel and defend the case. The respondent might have incurred some amount for engaging of a counsel. Without any source of income, it may not be possible for the respondent to admit her son in a good school. It is a known fact one has to pay huge amount towards school fee for children. The Court shall not lost sight of this aspect while deciding this type of petitions. The petitioner is getting net salary of Rs.81,160/-. Having no other source of income, the respondent has been residing at her parents house on their mercy. The trial Court has not granted any

amount towards maintenance of the son. An amount of Rs.20,000/- is hardly sufficient for sustenance of two individuals in view of the prevailing price index. The trial Court rightly considered the financial status of both parties and granted Rs.15,000/-p.m. towards maintenance and Rs.5,000/-p.m. towards legal expenses from the date of the order. Viewed from any angle, I am of the considered view that the amount of interim maintenance granted by the trial Court is not on higher side. There is no illegality or irregularity in the orders of the trial Court, which warrants interference of this Court. The revision lacks merits and bonafides and the same is liable to be dismissed.

Hence, the Civil Revision Petition is dismissed. Miscellaneous Petitions pending, if any, shall stand closed.

10th February 2017.
Rns

T.SUNIL CHOWDARY, J

