

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA.No.1026 of 2018
and CMP Nos.8301 & 14034 of 2018

J.Jayakumar ... Appellant/Petitioner

-vs-

Soniya ... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 19 of Family Court Act, against the Judgment and decree dated 02.02.2018 made in IA. No.3169 of 2017 in O.P.No.3459 of 2016 on the file of the III Additional Principal Judge, FAC to II Additional Family Court, Chennai.

For Appellant : Mr.R.Saravanakumar

For Respondents: Mr.V. Rajagopal

J U D G M E N T

[Judgment of the Court delivered by R.SUBRAMANIAN,J.]

The appellant challenges the order passed in IA No.3169 of 2017 in OP No.3459 of 2016 made by the II Additional Family Court, Chennai, directing the payment of interim maintenance of Rs.20,000/- per month and Rs.50,000/- for litigation expenses under Section 13(1)(ia) of Hindu Marriage Act, 1955, pending HMOP No.3459 of 2016.

2. The appellant had filed OP No.3459 of 2016 seeking divorce on the ground of cruelty. The wife sought for interim maintenance at the rate of Rs.1,00,000/- per month for herself and child and Rs.50,000/- towards litigation expenses.

3. The Petition was resisted by the husband claiming that the wife is not entitled to maintenance, inasmuch as she has abandoned matrimonial abode on her own volition. It is also claimed that the quantum of maintenance sought for is highly excessive.

4. The learned Family Judge taking into account the fact that the Additional Chief Judicial Magistrate, Madurai, has

awarded maintenance of Rs.30,000/- per month (Rs.10,000/- for the wife and Rs.20,000/- for the minor daughter) as well as the fact that the appellant is employed as a Senior Executive in Citicorp Services India Pvt Ltd., drawing a decent salary awarded a sum of Rs.20,000/- towards maintenance and Rs.50,000/- towards litigation expenses.

5. It is this order which is under challenge in this appeal.

6. When the matter came up before the Division Bench on 23.08.2018, considering the fact that there was a dispute regarding the actual salary received by the appellant, the appellant was directed to produce his latest Salary Certificate and the Income Tax Return. Today when the matter is posted for hearing, the learned counsel for the appellant has produced his pay slip for the month of August 2018. From the said pay slip, it is seen that the monthly salary of the appellant is Rs.1,77,060/- and after deductions his net pay is Rs.73,757/-.

7. The learned counsel appearing for the appellant would contend that the Criminal Court under Section 125 has already directed him to pay Rs.30,000/- towards maintenance to the wife and the child, if another Rs.20,000/- is to pay, he will be left only Rs.23,757/- for his own expenses. We have perused the salary slip, we find that the deductions made are on the following heads:

Deductions	Amount
Income Tax	Rs. 30,852/-
Provident Fund	Rs. 8,670/-
Professional Tax	Rs. 200/-
Voluntary Provident Fund	Rs. 63,581/-
TOTAL	Rs.1,03,303/-

8. Of the deductions stated above, the first three are mandatory statutory deductions and the 4th one, namely Voluntary Provident Fund is being deducted at the instance of the appellant himself. Therefore, the same cannot be taken as a statutory or compulsory deduction, if the statutory deductions are excluded then the salary of the appellant would be Rs.1,37,338/-. In the light of the salary evidenced by the Pay Slip as above, we do not think that the award of interim maintenance at Rs.20,000/- can be said to be disproportionate or on the higher side.

9. We therefore see no merits in the appeal and the Appeal is therefore dismissed. However, there will be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

jv

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
The III Additional Principal Judge,
FAC to II Additional Family Court,
Chennai.

Copy to: The Section Officer
VR Section,
High Court, Madras.

+1cc to Mr.R.Saravanakumar, Advocate SR.NO.64512

SSI(CO)
sm:22.10.2018

CMA.No.1026 of 2018
and CMP Nos.8301 & 14034 of 2018



WEB COPY