

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.01.2018
CORAM

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

Civil Miscellaneous Appeal No.1037 of 2017

S.Suriyapriya

... Appellant

Vs.

S.Karthikeyan

.... Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act, against order and decreetal order dated 04.06.2016 made in I.A.No.92 of 2016 in H.M.O.P.No.457 of 2015 on the file of Principal Family Court, Coimbatore.

For Appellant : Mr.C.Prabakaran

For Respondent : Mr.R.Diwakar
for Mr.A.E.Lakshmi Narayanan

JUDGMENT

(Judgment of the Court was delivered by A.SELVAM,J.)

This Civil Miscellaneous Appeal has been directed against the order dated 04.06.2016 passed in I.A.No.92 of 2016 in H.M.O.P.No.457 of 2015 by the Principal Family Court, Coimbatore.

2. The respondent herein as petitioner has filed H.M.O.P.No.457 of 2015 on the file of the trial court for getting the relief of divorce, wherein, the present appellant has been shown as sole respondent.

3. During pendency of the same, the appellant herein as petitioner has filed I.A.No.92 of 2016 under Section 24 of the Hindu Marriage Act, 1955, praying to pass an order of interim monthly maintenance of Rs.45,000/-.

4. The trial court, after considering the available evidence on record, has partly allowed the petition and thereby directed the respondent therein to pay an interim monthly maintenance of Rs.6,500/- by way of passing the impugned order and the same has

been challenged in the present Civil Miscellaneous Appeal by the petitioner as appellant.

5. The learned counsel appearing for the petitioner/appellant has contended to the effect that both the appellant and respondent has been blessed with a male child and now he is under the custody of the appellant/petitioner and even though the appellant/petitioner has claimed interim monthly maintenance to the tune of Rs.45,000/-, the trial court has erroneously granted a meagre sum of Rs.6,500/- and under such circumstances, the amount fixed by the trial court is liable to be enhanced.

6. Per contra, the learned counsel for the respondent has contended to the effect that on the basis of monthly emoluments of the respondent, the trial court has rightly awarded a sum of Rs.6,500/- as interim monthly maintenance by way of passing the impugned order and the same does not require any interference and the present appeal deserves to be dismissed.

7. It is an admitted fact that the respondent herein as petitioner has filed H.M.O.P.No.457 of 2015 on the file of the trial court for getting the relief of divorce. It is also equally an admitted fact that during the pendency of H.M.O.P., I.A.No.92 of 2016 has been filed for getting the relief of interim monthly maintenance.

8. The trial court has awarded a sum of Rs.6,500/- as interim monthly maintenance.

9. The only contention put forth on the side of the appellant/petitioner is that the male child of both the appellant and respondent is now under the care and custody of the appellant/petitioner and under the said circumstances, the quantum of amount awarded by the trial court as interim monthly maintenance is not at all sufficient.

10. Considering the aforesaid factual circumstances, this court is of the view that Rs.7,500/- per month is required to the appellant/petitioner to maintain herself and also the male child and to that effect, this appeal is liable to be allowed in part.

In fine, this Civil Miscellaneous Appeal is allowed in part without cost. The order passed in I.A.No.92 of 2016 in H.M.O.P.No.457 of 2015 by the trial court is modified as follows:-

"The respondent/husband is directed to pay the interim monthly maintenance of Rs.7,500/- to the appellant/petitioner. In other aspects, there is no

modification. The trial court is directed to dispose of the H.M.O.P.No.457 of 2015 before the end of March 2018 and report the same to the Registry without fail. "

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

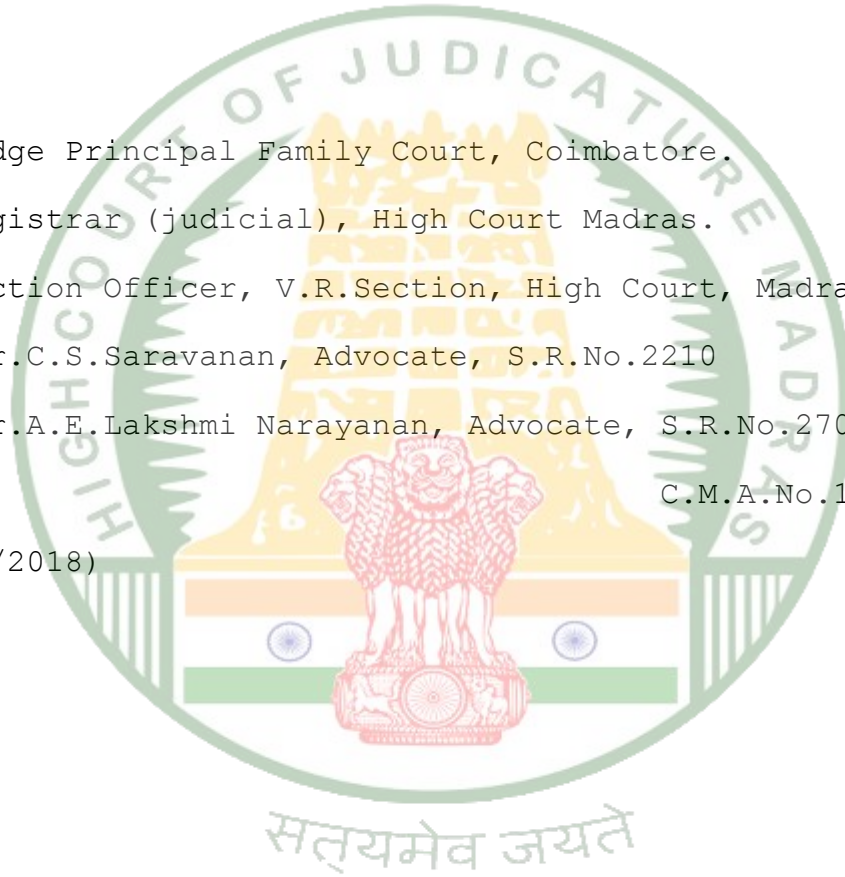
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To

1. The Judge Principal Family Court, Coimbatore.
 2. The Registrar (judicial), High Court Madras.
 3. The Section Officer, V.R.Section, High Court, Madras.
- +1cc to Mr.C.S.Saravanan, Advocate, S.R.No.2210
+1cc to Mr.A.E.Lakshmi Narayanan, Advocate, S.R.No.2708

C.M.A.No.1037 of 2017

EV(CO)
RRK(14/02/2018)



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