

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.02.2018

Coram

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

C.M.A.No.127 of 2018
and CMP No.1696 of 2018

T. Balasubramaniam Appellant/Respondent

vs.

V. Mythili Respondent/Petitioner

This Civil Miscellaneous Appeal is filed under Section 19 (1) of the Family Court Act, 1984, against the order dated 28.07.2017 passed by the Family Court, Thiruvallur, in I.A.No.66/2014 in HMOP No.41/2014.

For Appellant : Mr.S. Saravanan

For Respondent : Mr.P.B Balaji

JUDGMENT

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

This Civil Miscellaneous Appeal has been directed against the order dated 28.07.2017, passed in I.A.No.66 2014, in HMOP No.41/2014 by the Family Court, Thiruvallur.

2.The appellant herein, as petitioner, has filed a petition in HMOP No.41/2014 on the file of trial Court, praying to pass a decree of divorce, wherein, the present respondent has been arrayed as sole respondent.

2.During the pendency of the same, the respondent, as petitioner, has filed a petition in I.A.No.66/2014 under Section 24 of Hindu Marriage Act, 1955 praying to pass an order of interim monthly maintenance together with litigation expenses.

3.The trial Court, after considering the available evidence on record, has directed the appellant, as respondent, to pay a sum of Rs.10,000/- (Rupees ten thousand only) towards

interim monthly maintenance and Rs.15,000/- (Rupees Fifteen thousand only) towards litigation expenses by way of passing the impugned order and the same is being challenged in the present civil miscellaneous appeal.

4. Learned counsel for the appellant/respondent has repeatedly contended to the effect that no salary certificate of the appellant/husband has been filed. However, the trial Court has observed that the appellant is drawing a monthly salary of Rs.1,500/-, but the trial court has erroneously directed the appellant/husband to pay a sum of Rs.10,000/- towards interim monthly maintenance and Rs.15,000/- towards litigation expenses by way of passing the impugned order and therefore, the quantum fixed by the trial court is liable to be modified.

5. The learned counsel appearing for the respondent/petitioner has contended that for the purpose of proving the contentions raised on the side of the appellant, no document has been filed and under such circumstances, on the basis of available material on record, the trial Court has rightly fixed the quantum towards interim monthly maintenance and litigation expenses and under such circumstances, the impugned order, passed by the trial Court, does not call for any interference.

6. It is an admitted fact that the appellant/husband has filed HMOP No.41 of 2014 on the file of Family Court, Thiruvallur praying to pass a decree of divorce. During the pendency of the same, petition in I.A.No.66/2014 has been filed by the respondent/wife, as petitioner, so as to direct the appellant/husband to give interim monthly maintenance and also litigation expenses. The trial Court, as mentioned supra, has fixed the quantum.

7. The main grievance expressed on the side of the appellant is that the appellant has been drawing a monthly salary of Rs.1,500/- and the same has also been observed by the trial Court. But the trial Court, without considering the observation made by it, has erroneously fixed Rs.10,000/- towards interim monthly maintenance and Rs.15,000/- towards litigation expenses.

8. Even though such a plea has been raised on the side of the appellant/husband, no document has been filed. The trial Court has fixed a sum of Rs.10,000/- towards interim monthly maintenance and Rs.15,000/- towards litigation expenses.

9. Considering the present trend of life and the prices of bare needs, the quantum fixed by the trial Court towards both the heads is not excessive. Altogether, the civil miscellaneous

appeal is liable to be dismissed.

10.In fine, this Civil Miscellaneous Appeal is dismissed without costs. The order passed in I.A.No.66/2014 in H.M.O.P.No.41 of 2014, by the trial Court, is confirmed. The trial Court is directed to dispose of H.M.O.P.No.41 of 2014 before the end of April 2018 and report the same to the Registry without fail. Connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

sr

To

The Judge,
Family Court, Thiruvallur

Copy TO

The Section Officer,
Judicial Section, High Court,
Madras.

+lcc to Mr.S.Saravanan, Advocate SR.No.9367

C.M.A.No.127 of 2018

GJ(CO)
GN(07/03/2018)

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