

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.02.2018

Coram

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

C.M.A.No.133 of 2018  
and  
C.M.P.No.1734 of 2018

R.Rajesh ... Appellants/Respondent/  
Husband

vs.

R.Saranya ... Respondent/Petitioner/  
Wife

This Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act, 1984, against the order dated 09.03.2017 passed by the Additional Principal Family Court, Coimbatore, in I.A.No.1243 of 2015 in H.M.O.P.No.980 of 2013.

For Appellant : Mr.K.Govi Ganesan

For Respondent: Mr.S.Gunalan

JUDGMENT

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

This Civil Miscellaneous Appeal has been directed against the order dated 09.03.2017 passed in I.A.No.1243 of 2015 in H.M.O.P.No.980 of 2013 by the Additional Principal Family Court, Coimbatore.

2.The appellant herein, as petitioner, has filed H.M.O.P.No.980 of 2013, on the file of the trial Court, for getting an order of restitution of conjugal rights, wherein, the present respondent has been arrayed as sole respondent.

3.During pendency of the same, the respondent, as petitioner, has filed a petition in I.A.No.1243 of 2015, under Section 24 of the Hindu Marriage Act, 1955, praying to direct the respondent therein to pay interim monthly maintenance to the tune of Rs.10,000/- and Rs.5000/- towards litigation expenses.

4.The trial Court, after considering the rival contentions put forth on either side, has partly allowed I.A.No.1243 of 2015, whereby directed the respondent therein to pay an interim monthly maintenance of Rs.3000/- and also Rs.5000/- towards litigation expenses to the petitioner, by way of passing the impugned order and the same is being challenged in the present Civil Miscellaneous Appeal.

5.The learned counsel appearing for the appellant / respondent has contended to the effect that the respondent/petitioner has been doing video editing work and thereby earning Rs.1000/- per day and therefore, she is not entitled to get interim monthly maintenance and also litigation expenses and the trial Court has failed to consider all those things and therefore, the order passed by the trial Court is liable to be set aside.

6.Per contra, the learned counsel appearing for the respondent/petitioner has contended to the effect that there is no document for the purpose of proving the contention put forth on the side of the appellant/respondent and the trial Court, after considering the overall circumstances available on record, has rightly passed the impugned order and the same does not require any interference.

7.It is an admitted fact that the appellant/respondent has filed H.M.O.P.No.980 of 2013, on the file of the trial Court for getting an order of restitution of conjugal rights. During pendency of the same, the respondent/petitioner has filed I.A.No.1243 of 2015, under Section 24 of the Hindu Marriage Act, 1955, for the relief sought therein.

8.Even though a faint attempt has been made on the side of the appellant/respondent to the effect that the respondent/petitioner has been earning a sum of Rs.1000/- per day, for the purpose of proving the same, no document has been filed.

9.Considering the fact that the respondent/petitioner is the legally wedded wife of the appellant/respondent and also considering the quantum of amount granted by the trial Court, this Court is of the view that the impugned order passed by the trial Court does not suffer from any illegality or infirmity and altogether, the present Civil Miscellaneous Appeal deserves to be dismissed.

In fine, this Civil Miscellaneous Appeal is dismissed without costs. The order passed in I.A.No.1243 of 2015 in H.M.O.P.No.980 of 2013 is confirmed. The trial Court is strictly directed to dispose of H.M.O.P.No.980 of 2013, before the end of April 2018 and report the same to the Registry without fail. Connected miscellaneous petition is dismissed.

Sd/-  
Assistant Registrar

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Sub Assistant Registrar

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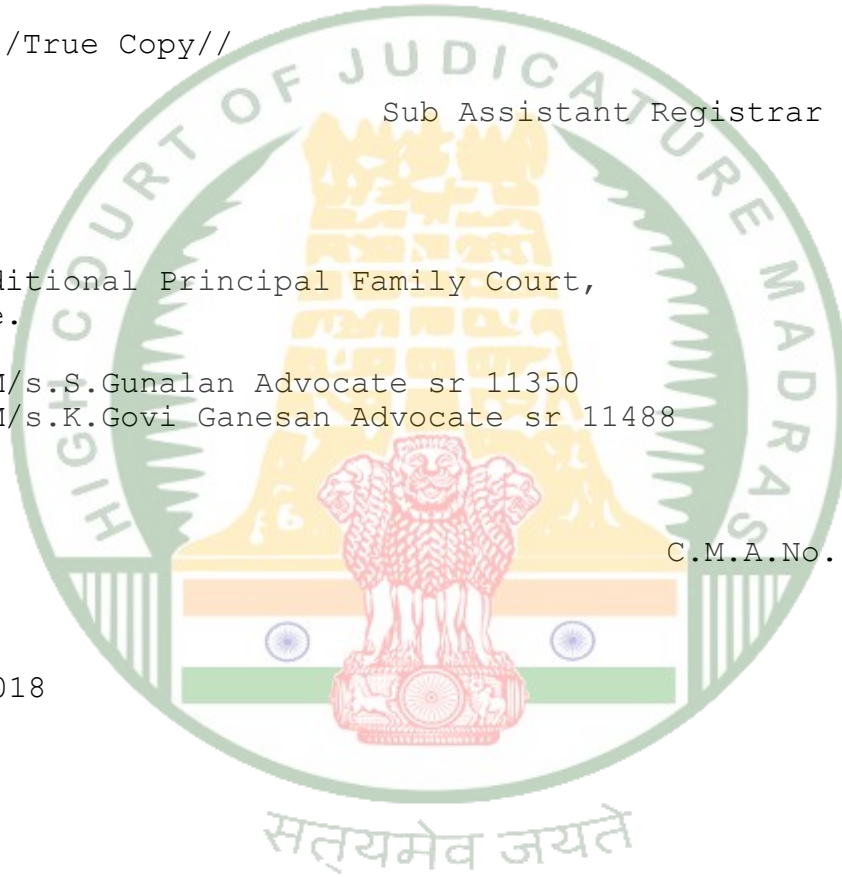
1.The Additional Principal Family Court,  
Coimbatore.

+1 cc to M/s.S.Gunalan Advocate sr 11350

+1 cc to M/s.K.Govi Ganesan Advocate sr 11488

C.M.A.No.133 of 2018

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