

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 26.03.2018
CORAM
THE HON'BLE Mr.JUSTICE A.SELVAM
AND
THE HON'BLE Mr.JUSTICE M.DHANDAPANI

C.M.A.No.140 of 2018

Jayaraj

... Appellant

Vs

Sakthipriya

... Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, against the order dated 22.05.2017 passed by the Family Court, Puducherry, in I.A.No.417 of 2016 in M.O.P.No.421 of 2015.

For Appellant : Mr.D.S.Thirumavalavan
For Respondent : No appearance

J U D G M E N T

[Judgment of the Court was delivered by A.SELVAM., J.]

This Civil Miscellaneous Appeal has been directed against the order dated 22.05.2017, passed in I.A.No.417 of 2016 in M.O.P.No.421 of 2015, by the Family Court at Pondicherry.

2.The appellant herein, as petitioner, has filed M.O.P.No. 421 of 2015, on the file of the trial Court, for getting a decree of divorce, wherein, the present respondent has been shown as sole respondent.

3.During pendency of the same, the respondent herein, as petitioner, has filed I.A.No.417 of 2016, on the file of the trial Court, under Section 24 of the Hindu Marriage Act, 1955, praying to pass an order of interim monthly maintenance to her and also to the child coupled with litigation expenses.

4.The trial Court, after considering the available evidence on record, has partly allowed I.A.No.417 of 2016, whereby, directed the respondent therein to pay interim monthly maintenance of Rs.10,000/- to the petitioner and Rs.2,000/- as litigation expenses, by way of passing the impugned order and the same is being challenged in the present Civil Miscellaneous Appeal.

5. Even though the respondent has been served with summons, appearance has not been made. Under the said circumstances, the present Civil Miscellaneous Appeal is disposed of on the basis of the contentions put forth on the side of the appellant/respondent.

6. The learned counsel appearing for the appellant/respondent has contended to the effect that the respondent/wife is having sufficient means to maintain her and also to pay litigation expenses, whereas, the appellant/respondent is not having sufficient means to pay the interim monthly maintenance amount as well as litigation expenses fixed by the trial Court and therefore, the impugned order passed by the trial Court is liable to be set aside.

7. It is an admitted fact that M.O.P.No.421 of 2015 has been filed by the appellant/respondent, for getting a decree of divorce. During pendency of the same, I.A.No.417 of 2016 has been filed under Section 24 of the Hindu Marriage Act, 1955, praying to direct the respondent therein to pay interim monthly maintenance to the petitioner, to the child and also litigation expenses.

8. It is seen from the records that both sides have not filed any document.

9. The main defence taken on the side of the appellant/respondent is that the respondent is having sufficient means to maintain her. Even though, such a plea has been taken as defence on the side of the appellant/respondent, as taunted earlier, no document has been filed.

10. Considering the fact that the respondent/petitioner is the legally wedded wife of the appellant/respondent and also considering that on the side of the appellant/respondent, it has not been positively established to the effect that the respondent/petitioner is having sufficient means to maintain her and also to pay litigation expenses, this Court is of the view that the contention put forth on the side of the appellant/respondent is sans merit.

11. The trial Court, after considering the present trend of life and also the prices of barest things, has rightly awarded a sum of Rs.10,000/- towards interim monthly maintenance and Rs.2,000/- as litigation expenses. Therefore, viewing from any angle, the impugned order passed in I.A.No.417 of 2016 in M.O.P.No.421 of 2015 by the trial Court is perfectly correct and the same does not require any interference and altogether, the present Civil Miscellaneous Appeal deserves to be dismissed.

In fine, this Civil Miscellaneous Appeal is dismissed without costs. The order passed by the trial Court in I.A.No.417 of 2016 in M.O.P.No.421 of 2015 is confirmed. However, the trial Court is directed to dispose of M.O.P.No.421 of 2015 before the end of October 2018, and report the same to the Registry without fail.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gya

To
The Family Court,
Puducherry.

copy to
The Section Officer
Judicial Section
High Court, Madras

The Section Officer
ER Section
High Court, Madras

+1 cc to Mr.D.S.Thirumavalavan Advocate sr 23586

C.M.A.No.140 of 2018

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