

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.01.2018

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

C.M.A.No.1332 of 2016
and C.M.P.No.10338 of 2016

C.Prakash Appellant/Petitioner

Vs.

G.Sakunthala ... Respondent/Respondent

Civil Miscellaneous Appeal preferred under Section 19 of the Family Courts Act, 1984, praying to set aside the order dated 12.09.2015 passed in F.C.O.P.No.1 of 2007 by the Family Court, Salem.

For Appellant : Mr.D.Lakshmipathi

For Respondent : Mr.V.Nithyanandam

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 12.09.2015, passed in F.C.O.P.No.1 of 2007, by the Family Court, Salem.

2.The appellant herein, as petitioner, has filed F.C.O.P.No.1 of 2007, on the file of the trial Court, praying to pass a decree of divorce under Section 13[1][i-a] of the Hindu Marriage Act, 1955, wherein, the present respondent has been shown as respondent.

3.The trial Court, after considering the averments made in the petition and counter coupled with available evidence, has allowed the petition and thereby, dissolved the marriage held between the petitioner and respondent on 14.06.1998 and

ultimately, directed the petitioner to pay a sum of Rs.7,92,000/- to the respondent in the form of permanent alimony. Against the order passed by the trial Court, the present Civil Miscellaneous Appeal has been preferred.

4.The learned counsel appearing for the appellant/petitioner has contended to the effect that the appellant/petitioner is not having sufficient means to pay huge amount of Rs.7,92,000/- by way of permanent alimony and he is ready to pay monthly maintenance at the rate of Rs.3,000/-. Under the said circumstances, the order passed by the trial Court is liable to be set aside.

5.Per contra, the learned counsel appearing for the respondent has contended to the effect that the respondent/wife has been suffering from paralytic attack and now, she is depending upon only her brother. Under the said circumstances, the trial Court has rightly directed the appellant/petitioner to pay permanent alimony to the tune of Rs.7,92,000/- by way of passing the impugned order and the same is not liable to be set aside.

6.It is an admitted fact that the appellant herein, as petitioner, has filed F.C.O.P.No.1 of 2007 on the file of the trial Court under Section 13[1][i-a] of the Hindu Marriage Act, 1955, wherein, on the side of the respondent, a hot contest has been made.

7.The trial Court, after considering the averments made in the petition as well as in counter coupled with available oral evidence, has granted a decree of divorce and ultimately, directed the petitioner to pay permanent alimony of Rs.7,92,000/-.

8.Even though on the side of the appellant/petitioner it has been contended to the effect that the medical shop run by the appellant/petitioner has already been closed, no such document has been filed and further, the contention put forth on the side of the respondent is that she is suffering from paralytic attack.

9.Considering the fact that the appellant/petitioner has not filed any document with regard to alleged closure of medical shop and also considering the ailment of the respondent, this Court is of the view that monthly maintenance cannot be ordered. However, the quantum fixed by the trial Court by way of permanent alimony is liable to be modified as stated infra.

In fine, this Civil Miscellaneous Appeal is allowed in part without costs. The appellant/petitioner is directed to pay a sum of Rs.7,50,000/- by way of permanent alimony to the respondent-wife within a period of three months.

Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gya

To

The Family Court,
Salem.

Copy To
The Record Keeper,
VR Section,
High Court,
Madras

+1cc to Mr.V.Nithyanandam, Advocate, S.R.No.5592

C.M.A.No.1332 of 2016
and
C.M.P.No.10338 of 2016

SJ(CO)
CS/08/02/18

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