

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2018

CORAM

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

C.M.A.No.1555 of 2017
and C.M.P.No.8184 of 2017

P.Manikandan ... Appellant/Respondent

Vs.

M.Hemavarshini ... Respondent/Petitioner

Civil Miscellaneous Appeal preferred under Section 19 of the Family Courts Act, 1984, praying to set aside the order dated 07.04.2017 passed in I.A.No.2514 of 2016 in H.M.O.P.No.1939 of 2015 by the Principal Family Court, Chennai.

For Appellant : Mr.S.Yuvaraj

For Respondent : Ms.D.Aruna

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 07.04.2017, passed in I.A.No.2514 of 2016 in H.M.O.P.No.1939 of 2015, by the Principal Family Court at Chennai.

2.The appellant herein, as petitioner, has filed H.M.O.P.No.1939 of 2015, on the file of the trial Court, for getting a decree of divorce on the ground of cruelty, wherein, the present respondent has been shown as respondent.

3.During pendency of the same, the respondent, as petitioner, has filed I.A.Nos.2514 and 2513 of 2016, praying to pass orders in respect of interim monthly maintenance and also litigation expenses.

4.The trial Court, after considering the available

evidence on record in I.A.No.2514 of 2016, has directed the respondent therein to pay interim monthly maintenance of Rs.4,000/- to the petitioner [wife] and Rs.3,000/- to the minor child, 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 appellant/respondent is nothing, but a driver and thereby, getting a meager monthly salary and he is not in a position to pay the quantum of amount fixed by the trial Court, by way of interim monthly maintenance and therefore, the impugned order passed by the trial Court is liable to be modified.

6.Per contra, the learned counsel appearing for the respondent has contended to the effect that the appellant/respondent has filed a custody petition so as to get legal custody of the minor, wherein, he has stated to the effect that he is getting more than his wife by way of monthly salary and therefore, the present contention put forth on the side of the appellant/respondent cannot be accepted.

7.It is an admitted fact that the appellant/respondent, as petitioner, has filed H.M.O.P.No.1939 of 2015 on the file of the trial Court, for getting a decree of divorce on the ground of cruelty. It is also equally an admitted fact that during pendency of the same, the respondent [wife], as petitioner, has filed I.A.No.2514 of 2016 for getting interim monthly maintenance for herself and also to the child.

8.The trial Court, as mentioned supra, partly allowed I.A.No.2514 of 2016 and thereby, directed the respondent to pay interim monthly maintenance of Rs.4,000/- to the wife and Rs.3,000/- to the child.

9.The main grievance expressed on the side of the appellant/respondent is that the appellant/respondent is getting monthly salary of Rs.7,000/-. For the purpose of proving the same, no document has been filed on either side.

10.Considering the present trend of life and also prices of barest things, nowadays, the quantum of amounts fixed by the trial Court as interim monthly maintenance is not excessive and therefore, the entire contention put forth on the side of the appellant/respondent cannot be accepted 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.2514 of 2016 in H.M.O.P.No.1939 of 2015 is confirmed. The trial Court is directed to dispose of

H.M.O.P.No.1939 of 2015 before the end of April 2018
and report the same to the Registry without fail.

Connected Miscellaneous Petition also dismissed.

Sd/-
Assistant Registrar(CS III)

//True copy//

Sub Assistant Registrar

To

- 1.The Principal Family Court,
Chennai.
2. The Section Officer,
VR Section, High Court,
Madras.
3. The Section Officer,
Judicial Section, High Court,
Madras-104 (Watch the Report).

+2cc to Mr.B.Srikrishnan, Advocate SR.No.9283

+1cc to Mr.S.Thiruvengadam, Advocate SR.No.8892

C.M.A.No.1555 of 2017
and
C.M.P.No.8184 of 2017

NM(CO)
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