

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.1977 of 2018
CMP No.15315 of 2018

K.Suresh

... Appellant

-vs-

S.Nathiya

.... Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, against the Order and Decreetal order dated 19.04.2018 made in I.A.No.230 of 2017 in H.M.O.P.No.5 of 2017 on the file of Family Court, Tiruvallur, directing the appellant to pay the respondent Rs.20,000/- as litigation expenses and Rs.15,000/- each month for maintenance to the respondent and her female child from the date of petition.

For Appellant : Mr.R.Manickam

J U D G M E N T

[Judgment of the Court was delivered by
K.K.SASIDHARAN, J.]

This Civil Miscellaneous Appeal is directed against the order dated 19 April 2018 in I.A.No.230 of 2017 in H.M.O.P.No.5 of 2017 granting interim maintenance of Rs.15,000/- to the respondent besides a sum of Rs.20,000/- towards litigation expenses.

2. The matrimonial proceedings in H.M.O.P.No.5 of 2017 was initiated by the respondent before the Family Court, Tiruvallur, praying for a decree of divorce. In the said proceedings, the respondent filed an interlocutory application in I.A.No.230 of 2017 invoking Section 24 of the Hindu Marriage Act praying for an order of maintenance. The Trial Court having found that the appellant is an employee of the Southern Railway and his take home salary is Rs.25,000/- directed him to pay maintenance at the rate of Rs.15,000/-. The Trial Court taking into account the claim made by the respondent towards litigation expenses awarded a sum of Rs.20,000/- on that ground. Feeling aggrieved,

the appellant has come up with this Civil Miscellaneous Appeal.

3. The learned counsel for the appellant contended that the appellant is getting only a sum of Rs.29,000/- as salary and he has to maintain his aged parents and as such, the Trial Court was not correct in awarding a sum of Rs.15,000/- per month towards interim maintenance.

4. The core question is as to whether the Trial Court was correct in awarding a sum of Rs.15,000/- per month towards interim maintenance.

5. There is no dispute that the appellant is an employee of Southern Railway. The Salary Certificate produced before this Court indicates that the take home salary of the appellant is Rs.29,792/- after all the statutory deductions. The Trial Court taking into account the fact that the respondent is without any avocation and that she has to maintain the child born in the wedlock awarded a sum of Rs.15,000/-. In view of the background facts indicated above, we do not find any error or illegality in the order passed by the Trial Court fixing interim maintenance at Rs.15,000/- per month. The order was passed by exercising the discretion on the basis of the materials available on record. We are therefore of the view that no interference is called for in the order under challenge.

6. We therefore dismiss the Civil Miscellaneous Appeal without any liability to pay costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

svki

To
The Judge, The Family Court, Tiruvallur.

+1cc to Mr.R.Manickam, Advocate SR.No.65261

GMV (15/10/2018)

CMA No.1977 of 2018