

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2018

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

C.R.P.(PD).No.1193 of 2018
& C.M.P.No.6194 of 2018

G.Pirintharaj,
S/o.Govinda Ramanuja Dhasar,
Khizvalamur,
Gingee Circle,
Gingee,
Villupuram District.

... Petitioner

Vs

M.Leela,
W/o.Pirintharaj,
D/o.P.D.Munisamy,
No.18, K.C.P.Colony-1,
Balakrishna Nagar,
Thiruvottiyur,
Chennai-19.

... Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, praying the order passed in the I.A.No.1 of 2006 in H.M.O.P.No.14 of 2015 against the fair and decretal order vide order dated 11.01.2018 on the file of Learned Subordinate Judge, Gingee, Villupuram District.

For Petitioner : Mr.S.Raja Ravi Varma

For Respondent : Mr.K.Krishnan

ORDER

The order under challenge in the present Civil Revision Petition is against the maintenance amount of Rs.5,000/- awarded. The learned counsel for the petitioner submitted that the petitioner herein has no income and that he has lost his earlier employment because of the complaint given by the respondent/wife and as such the trial Court was not correct in ordering the maintenance amount of Rs.5,000/-. He further submitted that the respondent is an M.Sc. B.Ed., Graduate and that he has capacity to earn by herself and therefore, the Court ought not to have passed the maintenance order on presumptions.

2. The learned counsel for the respondent on the other hand submitted that the petitioner herein was possessed of 6 acres Agricultural land and as such he has sufficient means to maintain himself as well as the respondent herein. He would further submit that having admitted from the Agricultural income and even assuming that he does not have any income from employment, a sum of Rs.5,000/- awarded is a reasonable amount to maintain his wife. In view of the same, the learned counsel would submit that there is no merits in the submissions made by the petitioners' counsel.

3. I have given carefully consideration through the submissions made by the respective counsels.

4. It is no doubt true that in the cross-examination, the respondent herein had deposed that the petitioner herein has lost his employment because of her family dispute between them. The Trial Court had come to a conclusion that since the petitioner was earlier gainfully employed and drawing the salary of Rs.40,000/- per month, there is possibility that he would be earning a reasonable amount at present and thereby had awarded a sum of Rs.5,000/- towards monthly maintenance, from the date of the petition. The petitioner herein had admitted that he was possessed of Agricultural lands in his chief examination. Insofar as the claim of the respondent herein that the petitioner was possessed of Agricultural lands fetching income, the same is denied by the learned counsel for the petitioner stating that those are joint family properties and as such he does not have any income from these Agricultural lands. It is also seen that the petitioner herein has denied any income from those Agricultural lands in his cross-examination. Though, there is a denial in the cross-examination, in view of the fact that he is possessing Agricultural lands and also taking into account that he is in position to maintain himself

for its bare necessities of food, clothing and shelter, the source for such expenses could be treated as his income and with the such a source, a sum of Rs.5,000/- seems to be a reasonable amount as maintenance. Though, there was a submission made by the learned counsel for the petitioner that the respondent herein is M.Sc, B.Ed Graduate, there is nothing on record to show that she was gainfully employed. In the absence of any income to maintain herself, it is the bounden duty of the petitioner herein to maintain his wife, which relationship is not in dispute. On perusal of the order passed by the trial Court, awarding the maintenance of Rs.5,000/- from the date of the petition, I do not find any infirmity in the order as such.

5. At this juncture, the learned counsel for the petitioner submitted that though the main H.M.O.P came to be filed in the year 2015 and the counter has also been filed, there is no much progress in the proceedings. Taking into account, the H.M.O.P. is pending from the year 2015 onwards and the counter has also been filed, the Learned Subordinate Judge, Gingee, Villupuram District is directed to complete the proceedings in H.M.O.P.No.14 of 2015 within a period of six months from the date of receipt of a copy of this order.

6. With the above observations, the **Civil Revision Petition is Dismissed.** No costs. Consequently, connected Miscellaneous Petition is also closed.

12.11.2018

bsm
Index : Yes/No
Speaking/Non-speaking order

To
The Learned Subordinate Judge, Gingee, Villupuram District.



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M.S.RAMESH.J,



C.R.P.(PD).No.1193 of 2018

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