

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.Rc.No.714 of 2013

and

M.P.No.1 of 2013

R.C.Murugesan

... Petitioner

Vs.

1.B.Kokila

2.M.Karishma (Minor)

... Respondents

This Criminal Revision filed under Section 397 R/W 401 of the Code of Criminal Procedure, to call for the records in MC No.22/2017 on the file of the learned District Munsif Cum Judicial Magistrate, Mettupalayam and set aside the order dated 08.05.2013.

For Petitioner : Mr.V.Bhiman

For Respondents: Notice Served - No appearance

ORDER

The Criminal Revision has been filed to call for the records in

M.C. No.22/2017 on the file of the learned District Munsif Cum Judicial Magistrate, Mettupalayam and set aside the order dated 08.05.2013.

2. The petitioner is the husband of first respondent. Due to the misunderstanding arose between the couple and the respondent walked out of the matrimonial home. The 2nd respondent is the minor daughter of the petitioner and 1st respondent. Admittedly, the 2nd respondent is under the care and custody of the first respondent. The first respondent filed a petition in M.C.No.22/2007, before the learned District Munsif and Judicial Magistrate, Mettupalayam for maintenance. After full fledged enquiry, the Magistrate directed the petitioner to pay a sum of Rs.2,500/- to the 2nd respondent. Aggrieved against the order passed by the learned Magistrate, the present Revision has been filed by the father of the minor namely the Revision petitioner.

3. The learned counsel for the petitioner would submit that the first respondent is working women and she is earning a good salary. Therefore, she is in a position to maintain herself and also the second respondent. The learned counsel also brought to the notice of this Court that the guardian O.P. filed by the petitioner was allowed vide order in GWOP 78/2011 dated 19.06.2012. However, disobeying of the Court, the first respondent has not handed over the second respondent

to the petitioner. The learned counsel would submit that the first respondent has means to take care of the second respondent and its only for the false reason, the minor was not handed over to the petitioner. Therefore, the learned counsel would submit that the trial Court made error.

4. None appeared on behalf of the respondent.

5. Heard the learned counsel for the petitioner. Perused the materials available on record.

6. The relationship between the parties is not in dispute. The learned Judge assails the order of maintenance on the ground that the first respondent is a working woman and therefore, she would be in a position to maintain herself and also her daughter. Since the first respondent would be able to maintain herself, the learned Magistrate has not passed any award to pay maintenance to his wife. The pertinence of the child/the second respondent is not in dispute. The award of interim maintenance of Rs.2,500/- to the second respondent is very reasonable. Therefore, this Court does not find any perversity or infirmity in the order passed by the Court below.

7. Hence, this Revision fails and the same is dismissed.
Connected, miscellaneous petition is also closed.

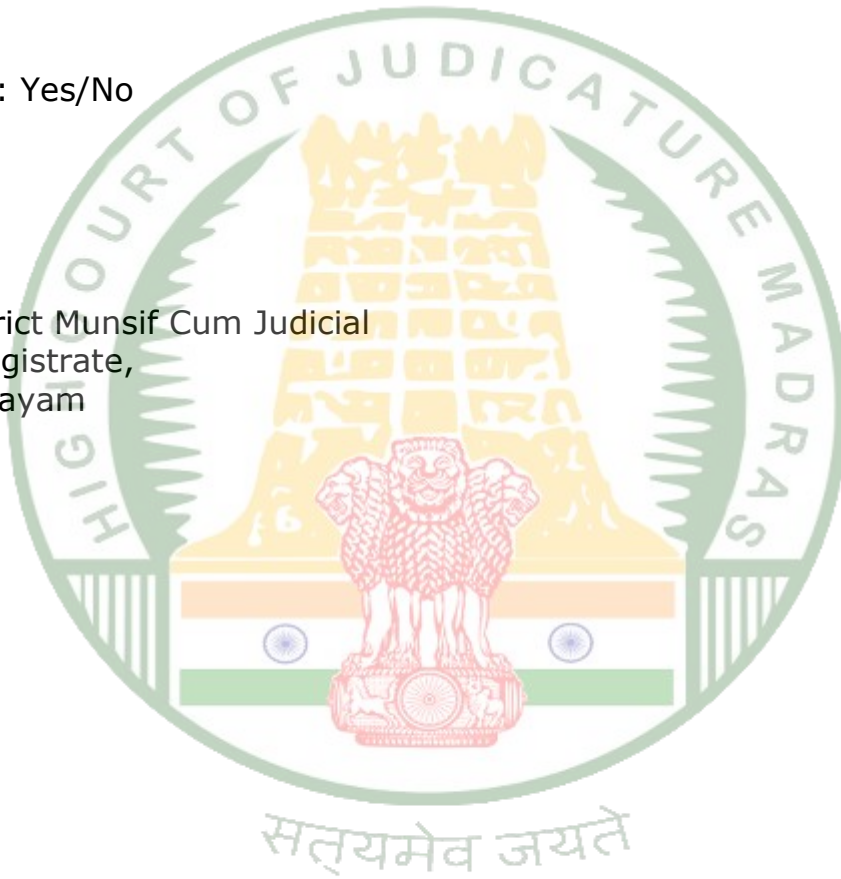
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Index : Yes/No

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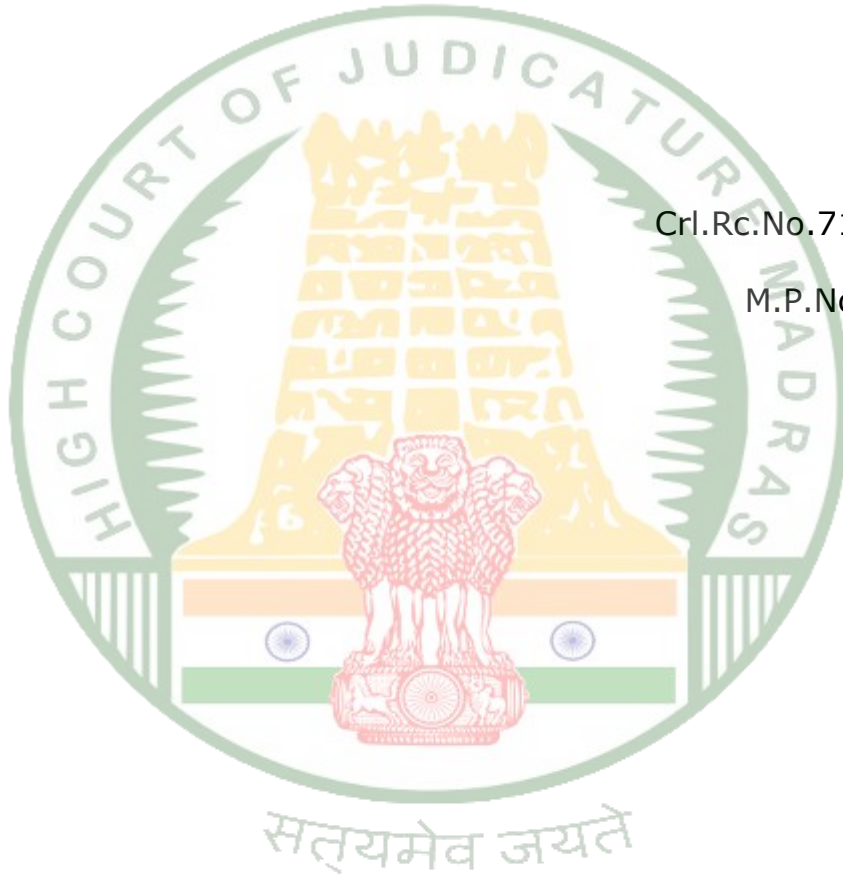
The District Munsif Cum Judicial
Magistrate,
Mettupalayam



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P.VELMURUGAN, J.,

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