

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.03.2018

CORAM

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

C.M.A.No.2783 of 2017
and C.M.P.No.15889 of 2017

Rajkumar Petitioner/Respondent/
Petitioner

Vs

1.Geetha @ Sangeetha
2.Minor Ashwath
Rep. by his natural guardian
1st respondent Respondents/Petitioner/
Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, against the order dated 29.05.2017 passed by the Family Court, Vellore, in I.A.No.958 of 2016 in F.C.O.P.No.259 of 2016.

For Petitioner : Ms.D.Sujatha
For Respondents : Mr.E.Kannadasan

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 29.05.2017, passed in I.A.No.958 of 2016 in F.C.O.P.No.259 of 2016, by the Family Court, Vellore District.

2.The appellant herein, as petitioner, has filed F.C.O.P.No. 259 of 2016, on the file of the trial Court, praying to pass a decree of divorce, wherein, the present first respondent has been shown as sole respondent.

3.During pendency of the same, the respondents herein, as petitioners, have filed I.A.No.958 of 2016 under Section 24 of the Hindu Marriage Act, 1955, praying to pass an order of interim monthly maintenance and also litigation expenses to the tune of Rs.25,000/- to the first petitioner and Rs.20,000/- to the minor petitioner and Rs.20,000/- respectively.

4.The trial Court, after considering the available evidence on record, has allowed I.A.No.958 of 2016 and thereby, directed the respondent therein to pay interim monthly maintenance of Rs.15,000/- and also Rs.20,000/- towards litigation expenses, by way of passing the impugned order.

5.The learned counsel appearing for the appellant/respondent has contended to the effect that the appellant/respondent is not having sufficient means to pay the quantum of interim monthly maintenance and litigation expenses fixed by the trial Court and at such circumstances, the same is liable to be modified.

6.The learned counsel appearing for the respondents has contended to the effect that the second respondent is under the care and custody of the first respondent. After considering the aforesaid fact, the trial court, has rightly fixed interim monthly maintenance of Rs.15,000/- and Rs.20,000/- towards litigation expenses, by way of passing the impugned order and the same does not require any interference.

7.It is an admitted fact that F.C.O.P.No.259 of 2016 has been filed by the appellant/respondent, for getting a decree of divorce. It is also equally an admitted fact that the second respondent/second petitioner is now under the care and custody of the first respondent/first petitioner.

8.The trial Court has awarded a sum of Rs.15,000/- towards interim monthly maintenance.

9.Considering the fact that the second respondent/minor petitioner is under the care and custody of the first petitioner, the quantum of interim monthly maintenance fixed by the trial Court does not require any modification.

10.As mentioned supra, the trial Court has fixed a sum of Rs.20,000/- towards litigation expenses. Considering the nature of the proceedings, this Court is of the view that Rs.10,000/- would be sufficient towards litigation expenses and to that extent, the Civil Miscellaneous Appeal is liable to be allowed in part.

In fine, this Civil Miscellaneous Appeal is allowed in part without costs. The quantum of litigation expenses fixed by the trial Court is modified as follows:

The appellant/respondent is directed to pay Rs.10,000/- towards litigation expenses. In other aspects, there is no modification. However, the trial Court is directed to dispose of F.C.O.P.No.259 of 2016 before the end of June 2018 and report the same to the Registry without fail.
Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

To

The Judge, Family Court,
Vellore.

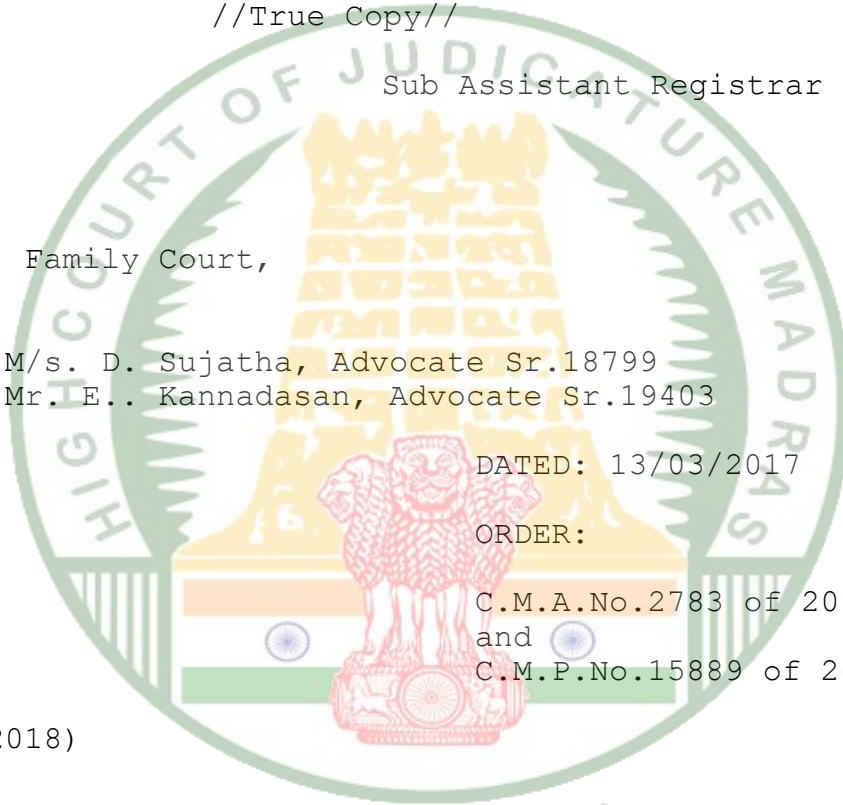
+ 1 cc to M/s. D. Sujatha, Advocate Sr.18799
+ 1 cc to Mr.E.. Kannadasan, Advocate Sr.19403

DATED: 13/03/2017

ORDER:

C.M.A.No.2783 of 2017
and
C.M.P.No.15889 of 2017

RR(CO)
EU(26/03/2018)



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