

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.02.2018

Coram

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

C.M.A.No.3137 of 2017

Mrs.Harinalakshmi ... Appellant/Petitioners

vs.

Anand Kalyana Sundaram ... Respondent /Respondent

This Civil Miscellaneous Appeal is filed under Section 19 of the Family Court Act, 1984, against the fair and decreetal order dated 04.10.2017 passed by the V Additional Family Court, Chennai in I.A.No.3062/2012 in O.P No.1833/2010.

For Appellant : Mr.D.S. Ramesh
For Respondent : Mr.R. Vasudevan

JUDGMENT

(Judgment of the Court was passed by A.SELVAM.J.)

This Civil Miscellaneous Appeal has been directed against the order dated 04.10.2017, passed in I.A.No.3062 2012, in O.P No.1833/2010 by the Additional Family Court, Chennai.

2.The appellant herein, as petitioner, has filed a petition in O.P No.1833/2010 on the file of trial Court, praying to pass a decree for restitution of conjugal rights, wherein, the present respondent has been shown as sole respondent.

3.During the pendency of the same, the appellant, as petitioner, has filed a petition in I.A.No.3062/2012 under Section 24 of Hindu Marriage Act, 1955 praying to direct the respondent therein to pay interim monthly maintenance.

4.The trial Court, after hearing both sides, has given a finding to the effect that the petitioner/wife has already invoked Domestic Violence Act and various orders have been passed thereon, but the same has been suppressed and ultimately dismissed I.A.No.3062 of 2012.

5.The learned counsel appearing for the appellant/petitioner has contended that the proceedings under Domestic Violence Act is pending and maintenance case is also pending.

6.Considering the representation made on the side of the appellant/petitioner, this Court is of the view to give the following direction to the appellant/petitioner:

The order passed in I.A.No.3062/2012 in O.P.No.1833/2010 by the trial Court is liable to be set aside and I.A.No.3062/2012 is liable to be remanded to the trial court.

7.In fine, this Civil Miscellaneous Appeal is allowed without costs. The order passed in I.A.No.3062/2012 in O.P.No.1833 of 2010, by the trial Court, is set aside and I.A.No.3062/2012 is remanded to the file of trial Court. The appellant/petitioner is directed to file all relevant facts relating to the proceedings, which are pending between the parties. The trial Court is directed to dispose of I.A.No.3062/2012 before the end of March 2018.

Sd/-

Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

sr

To

The V Additional Family Court,
Chennai

+lcc to Mr.R.Vasudevan, Advocate SR.No.9268

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SJ(CO)
GN(07/03/2018)