

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.01.2018

CORAM

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

C.M.A.No.3268 of 2017
and C.M.P.No.20403 of 2017

P.Krishnamurthy ..Appellant/Respondent/
Petitioner

Vs.

Guneswari ...Respondent/Petitioner/
Respondent

Civil Miscellaneous Appeal preferred under Section 19[i] of the Family Courts Act praying to set aside the order and decree dated 07.04.2017 passed in I.A.No.64 of 2014 in F.C.O.P.No.236 of 2014 by the Family Court, Vellore.

For Appellant : Mr.Ganesh Babu
For Respondent : No appearance

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 07.04.2017, passed in I.A.No.64 of 2014 in F.C.O.P.No.236 of 2014, by the Family Court, Vellore.

2.The appellant herein, as petitioner, has filed F.C.O.P.No.236 of 2014, on the file of the trial Court, praying to pass a decree of divorce, wherein, the present respondent has been shown as sole respondent.

3.During pendency of the same, the respondent has filed I.A.No.64 of 2014, under Section 24 of the Hindu Marriage Act, 1955, praying to pass an order of interim monthly maintenance as well as litigation expenses.

4.The trial Court, after considering the rival contentions raised on either side, has partly allowed I.A.No.64 of 2014 and thereby, directed the respondent therein to pay a sum of Rs.5,000/- as monthly maintenance and a sum of Rs.10,000/- towards litigation expenses, by way of passing the impugned order and the same is being challenged in the present Civil Miscellaneous Appeal.

5.Even though the respondent has been served with summons, appearance has not been made. Under the said circumstances, this Civil Miscellaneous Appeal is disposed of on merits on the basis of arguments advanced on the side of the appellant.

6.The learned counsel appearing for the appellant/respondent has contended to the effect that the appellant/respondent is a retired employee and also suffering from various ailments. Under the said circumstances, he is not in a position to pay the quantum of interim monthly maintenance fixed by the trial Court and the same is liable to be modified.

7.It is an admitted fact that the appellant herein, as petitioner, has filed F.C.O.P.No.236 of 2014 on the file of the trial Court, for getting a relief of divorce. It is also equally an admitted fact that I.A.No.64 of 2014 has been filed under Section 24 of the Hindu Marriage Act, 1955 by the respondent. The trial Court, as mentioned supra, has directed the respondent therein to pay interim monthly maintenance of Rs.5,000/-.

8.Even though it has been contended to the effect that on the side of the appellant that he is getting a monthly pension of Rs.11,000/- and odd, no document has been filed for the purpose of proving the same.

9.Considering the aforesaid factual aspects and also considering that the quantum of amount fixed by the trial Court is very meager, this Court is of the view that the contention put forth on the side of the appellant/respondent cannot be accepted and altogether, the present Civil Miscellaneous Appeal is deserves to be dismissed.

In fine, this Civil Miscellaneous Appeal is dismissed without costs. The order passed in I.A.No.64 of 2014 in F.C.O.P.No.236 of 2014 by the trial Court is confirmed. However, the trial Court is directed to dispose of F.C.O.P.No.236 of 2014 before the end of February 2018 and report the same to the registry without fail.

Connected Miscellaneous Petition is dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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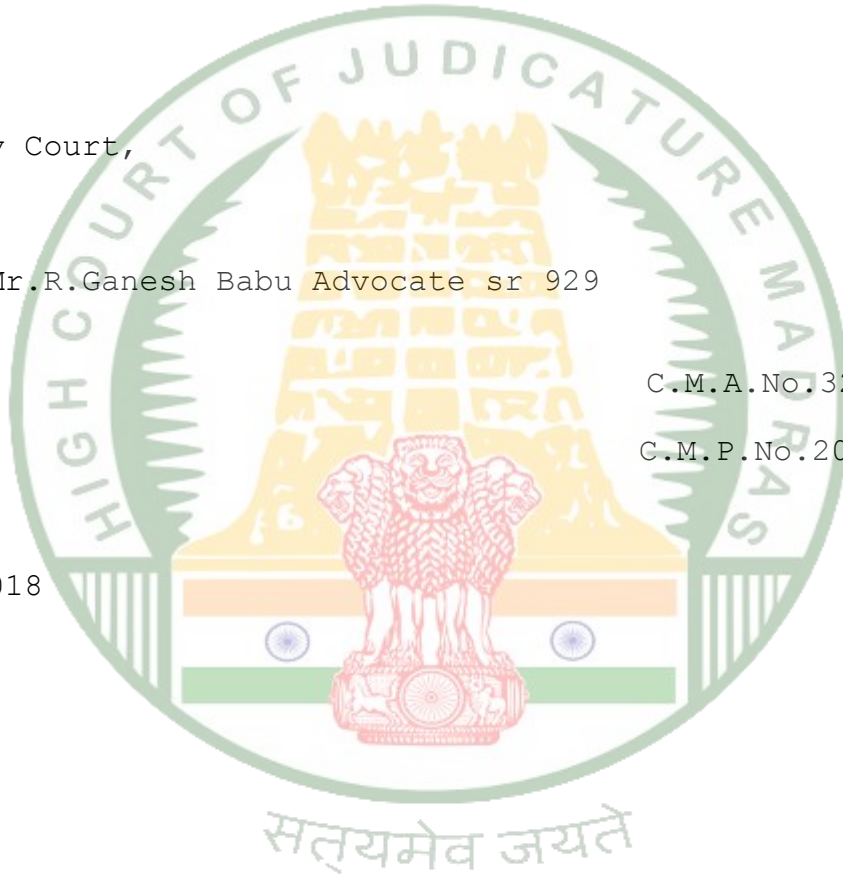
To

The Judge
The Family Court,
Vellore.

+1 cc to Mr.R.Ganesh Babu Advocate sr 929

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