

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.01.2018

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
AND
THE HON'BLE Mr.JUSTICE G.JAYACHANDRAN

C.M.A.No.3285 of 2017
and C.M.P.No.20722 of 2017

P.Murali ... Appellant /Respondent/Petitioner

Vs

K.Rekha @ Nagalakshmi ... Respondent /Petitioner/Respondent

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, against the order dated 08.09.2017 passed by the VI Additional Family Court, Chennai, in I.A.No.813 of 2016 in O.P.No.689 of 2015.

For Appellant : Mr.H.Adaikala Arockiaraj
For Respondent : Mr.S.Vijayakumar

J U D G M E N T

[Judgment of the Court was delivered by A.SELVAM., J.]

This Civil Miscellaneous Appeal is directed against the order dated 08.09.2017, passed in I.A.No.813 of 2016 in O.P.No.689 of 2015, by the VI Additional Family Court at Chennai.

2.The appellant herein, as petitioner, has filed O.P.No.689 of 2015, for getting a decree of divorce, wherein, the present respondent has been arrayed as sole respondent.

3.During pendency of the same, the respondent, as petitioner, has filed I.A.No.813 of 2016 under Section 24 of the Hindu Marriage Act, 1955, praying to pass an interim monthly maintenance of Rs.20,000/-.

4.The trial Court, after considering the available evidence on record, has directed the respondent to give interim

monthly maintenance of Rs.7,000/-, by way of passing the impugned order and the same is being challenged in the present Civil Miscellaneous Appeal.

5.The learned counsel appearing for the appellant/respondent has contended to the effect that the salary certificate of the appellant/respondent has been marked as Ex.R2, wherein, the total emoluments of the appellant/respondent is mentioned as Rs.8,226/-. But the trial Court, without considering the total monthly emoluments of the appellant/respondent, has erroneously directed him to pay interim monthly maintenance of Rs.7,000/- and therefore, the quantum fixed by the trial Court is liable to be modified.

6.The learned counsel appearing for the respondent/petitioner has contended to the effect that the trial Court, after considering the available evidence on record, has directed the appellant/respondent to pay interim monthly maintenance of Rs.7,000/- by way of passing the impugned order and the same does not require any interference.

7.It is an admitted fact that the appellant, as petitioner, has filed O.P.No.689 of 2015 on the file of the trial Court, for getting a decree of divorce. During pendency of the same, the respondent therein, as petitioner, has filed I.A.No.813 of 2016 under Section 24 of the Hindu Marriage Act, 1955. The trial Court has directed the respondent to pay interim monthly maintenance of Rs.7,000/-.

8.The only gravamen expressed on the side of the appellant/respondent is that even though salary certificate of the appellant/respondent has been marked as Ex.R2, the same has not at all been considered by the trial Court.

9.It is seen from the records that the salary certificate of the appellant/respondent has been marked as Ex.R2, wherein, the monthly emoluments of the appellant/respondent is mentioned as Rs.8,226/-. The trial Court, without considering Ex.R2, has erroneously given a finding that no document has been marked on the side of the appellant/respondent so as to prove his monthly salary.

10.Considering the fact that Ex.R2 as the salary certificate of the appellant/respondent, wherein, it has been clearly mentioned that he has been drawing monthly salary of Rs.8,226/-, this Court is of the view that the quantum fixed by the trial Court is totally erroneous.

11.Considering the present trend of life and also considering the monthly emoluments of the appellant/respondent,

the respondent/petitioner is entitled to get Rs.4,000/- per mensem as interim monthly maintenance.

12.With the above modification, this Civil Miscellaneous Appeal is allowed in part.

In fine, this Civil Miscellaneous Appeal is allowed in part without costs. The order passed in I.A.No.813 of 2016 in O.P.No.689 of 2015 by the trial Court is modified as follows :

The appellant/respondent is directed to pay interim monthly maintenance of Rs.4,000/- to the respondent/petitioner. In other aspects, there is no modification. The trial Court is directed to dispose of O.P.No.689 of 2015 before the end of March 2018 and report the same to the Registry without fail.

Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

gya

To

1.The VI Additional Family Court,
Chennai.

2. The Section Officer,
VR Section, High Court,
Madras.

3. The Section Officer,
Judicial Section, High Court,
Madras.

+1cc to Mr.Adaikala Arockiaraj, Advocate SR.No.5053
+1cc to Mr.S.Vijaya Kumar, Advocate SR.No.5079

C.M.A.No.3285 of 2017
and
C.M.P.No.20722 of 2017

AD(CO)
GN(21/02/2018)