

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2798 of 2014

P.Paramasivam

.. Petitioner

Vs.

R.Susila

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 31.01.2014 made in I.A.No.230 of 2011 in H.M.O.P.No.31 of 2011 on the file of the Principal Subordinate Court, Chidambaram.

For Petitioner : Mr.T.Sunil
for Mr.V.Balamurugane

For Respondent : Mr.V.Moorthi

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 31.01.2014 made in I.A.No.230 of 2011 in H.M.O.P.No.31 of 2011 on the file of the Principal Subordinate Court, Chidambaram.

2.The petitioner is husband and respondent is wife in

<http://www.judis.nic.in> H.M.O.P.No.31 of 2011 on the file of the Principal Subordinate Court,

Chidambaram. The petitioner filed the said H.M.O.P for dissolution of the marriage. In H.M.O.P, the respondent filed I.A.No.230 of 2011, claiming a sum of Rs.6000/- per month as interim maintenance, a sum of Rs.10,000/- towards medical and clothing expenses and a sum of Rs.5,000/- to meet the travel expenses. According to the respondent, the petitioner is working as a Head Constable and he is earning a sum of Rs.20,000/- per month and he is getting Rs.5,00,000/- per year as income from agricultural land. The respondent is staying with her brother and is earning meagre amount as agricultural coolie. The petitioner is not maintaining the respondent. The respondent is unable to maintain herself and prayed for interim maintenance as claimed in the above petition.

3.The petitioner filed counter affidavit and contended that the petitioner is getting only a sum of Rs.8,000/- per month as income after deduction and he is not getting any agricultural income. The respondent earlier filed Cr.M.P.No.2224 of 2010 on the file of the District Munsif-cum-Judicial Magistrate, Portonovo and a sum of Rs.1500/- is ordered as maintenance to the respondent in the said petition. The petitioner is regularly paying the said amount. Suppressing the said fact, the respondent has filed the present

application. She herself has admitted that she is working as an agricultural coolie and getting income and prayed for dismissal of the application.

4. Before the learned Judge, the respondent examined herself as P.W.1 and marked petition filed under Section 127(1) of Cr.P.C as Ex.P1. The petitioner examined himself as R.W.1 and marked 5 money order receipts as Exs.R1, R3 to R6 and one money order acknowledgement as Ex.R2.

5. The learned Judge considering the averments in the affidavit, counter affidavit and documents filed, held that maintenance ordered by the Magistrate Court is not a bar to consider the application filed under Section 24 of the Hindu Marriage Act. The amount ordered in the said proceedings in Cr.M.P.No.2224 of 2010 is to be adjusted in the amount to be ordered in the application filed under Section 24 of the Hindu Marriage Act. The learned Judge directed the petitioner to pay a sum of Rs.5000/- as interim maintenance per month and a sum of Rs.5,000/- towards litigation expenses.

6. Against the said order dated 31.01.2014 made in I.A.No.230 of 2011 in H.M.O.P.No.31 of 2011, the petitioner has come out with the present Civil Revision Petition.

7. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

8. From the materials available on record, it is seen that the petitioner has stated that after all deductions, he is getting only a sum of Rs.8,000/- per month as salary. He denied getting any income from the agricultural land. The respondent has not produced any evidence to disprove the said contention of the petitioner. The respondent is getting Rs.1500/- as maintenance as per the order passed in Cr.M.P.No.2224 of 2010 by the District Munsif cum Judicial Magistrate, Portonovo. She also admitted that she is working as agricultural coolie and is earning meagre amount.

9. Considering these facts, I hold that the amount of Rs.5000/- ordered by the learned Judge is on higher side and the same is liable to be reduced. Considering all the materials on record, order of the learned Judge awarding Rs.5,000/- per month as interim maintenance is modified to Rs.3,000/- per month as interim

maintenance and the amount awarded towards litigation expenses is confirmed.

10. With the above modification, this Civil Revision Petition is partly allowed. No costs.

26.03.2018

Index : Yes/No

gsa

To

The Principal Subordinate Judge,
Chidambaram.



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V.M.VELUMANI,J.

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