

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2018

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THE HON'BLE MR.JUSTICE R.SUBBIAH
and
THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.954 of 2018
and
C.M.P.No.7783 of 2018

E.Prakash ... Appellant/Petitioner

Vs.

J.Ruby Priya ... Respondent/Respondent

Civil Miscellaneous Appeals have been filed under Section 19 of the Family Courts Act, 1984, against the order 17.11.2017 made in I.A.No.928 of 2017 in I.D.O.P.No.848 of 2015 passed by the V Additional Family Court, Chennai.

For Appellant : Mr. K.S.Vamsidhar
For Respondent : Mr.V.K.Rajagopalan

JUDGMENT

(Judgment of the Court was delivered by R.SUBBIAH, J.,)

This appeal has been filed challenging the order dated 17.11.2017 passed by the V Additional Family Court, Chennai, in I.A.No.928/2017 in O.P.No.848 of 2015 directing the appellant herein to pay a sum of Rs.10,000/- per month to the respondent herein towards interim maintenance.

2.1. The appellant is the husband and the respondent is the wife. The marriage between the appellant and the respondent was solemnised on 21.04.2014 according to the Christian rites and customs. Subsequent to marriage, there was matrimonial dispute between the parties. Hence, the appellant/husband filed I.D.O.P.No.848 of 2015 before the Family Court Chennai, for a decree of divorce under section 10(1)(ix) of the Indian Divorce Act on the ground of cruelty. Pending the Original Petition, the respondent/wife filed I.A.No.928 of 2017 for interim maintenance directing the appellant herein to pay a sum of Rs.25,000/- as monthly maintenance contending that the appellant is earning more than Rs.60,000/- per month by way of salary and also carrying on business of 'funeral undertakers' and earning income of more than Rs.1 lakh per month.

2.2. The said I.A. was resisted by the appellant/husband by

filing a detailed counter denying the contention of the respondent that he was earning Rs.60,000/-. On the other hand, it is the specific case of the appellant that his salary is only Rs.35,500/- per month and out of the said amount, a sum of Rs.12,862/- was deducted from his salary for various reasons and his net take home pay is Rs.22,638/- per month, out of which, he is giving Rs.10,000/- every month to his father for rental and family expenses. He further stated in the counter that the respondent/wife is employed and earning a good salary and hence, sought for dismissal of the said I.A..

2.3. The Family Court, considering the submissions made by both sides, directed the appellant herein to pay a sum of Rs.10,000/- per month as interim maintenance. Aggrieved over the same, the present appeal has been filed.

4. The only submission made by the learned counsel for the appellant is that his take home salary is Rs.22,638/- and in support of his contention he has also produced his pay slip. He further submitted that the respondent is working in 'Global e-Business Operation Pvt.Ltd.' and earning an income of Rs.18,701/- per month. In support of his contention he has also produced the pay slip of the respondent for the month of October, 2013. Therefore, he submitted that she is employed and earning a considerable income and hence, she is not entitled for maintenance.

5. Heard both sides.

6. The main submission of the learned counsel for the appellant based on his averment made in the affidavit is that the respondent/ wife is working and earning a sum of Rs.18,701/- and therefore, she is not entitled for interim maintenance but the trial Court, considering this aspect, directed the appellant to pay a sum of Rs.10,000/- per month.

7. It is replied by the learned counsel for the respondent that prior to marriage, the respondent was in employment but after marriage, she is not going for any work. Thus, he sought for dismissal of the appeal.

8. It is pertinent to point out that except producing the pay slip of the respondent pertaining to the month of October, 2013, no other tangible evidence was produced before this Court by the appellant that the respondent is earning. Under such circumstances, we are of the opinion that there is no infirmity in the order passed by the Family Court in directing the appellant to pay the interim maintenance to the respondent. However, considering the facts and circumstances of the case, we find that the amount of Rs.10,000/- is on the higher side. Hence, the interim maintenance of Rs.10,000/- per month as ordered by the Family Court is reduced to Rs.7,500/- per month. Therefore, the appellant shall pay the arrears of maintenance

to the respondent at the rate of Rs.7,500/- from the date of the petition (I.A.No.928 of 2017), within a period of four weeks from the date of receipt of a copy of this order and thereafter, shall continue to pay a sum of Rs.7,500/- per month to the respondent before 5th day of every English Calendar month. The V Additional Family Court, Chennai, is directed to dispose of the Original Petition within a period of four months from the date of receipt of a copy of this order.

9. With the above directions, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi

To

The V Additional Principal Judge,
Family Court,
Chennai.

+1cc to Mr.V.K.Rajagopalan, advocate sr.no.50747

C.M.A.No.954 of 2018

nr 30/08/2018

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