

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.4673 of 2014
and M.P.No.1 of 2014

Ramalingam

.. Petitioner

Vs.

Mangalakshmi

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 08.09.2014 made in I.A.No.233 of 2012 in C.M.A.No.26 of 2012 on the file of the Additional District Court, Chidambaram, Cuddalore District.

For Petitioner : Mr.S.Gunaseelan

For Respondent : Mr.Om Sai Ram

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 08.09.2014 made in I.A.No.233 of 2012 in C.M.A.No.26 of 2012 on the file of the Additional District Court, Chidambaram, Cuddalore District.

2.The petitioner /husband filed H.M.O.P.No.39 of 2008 on the file of the Subordinate Court, Chidambaram against the respondent

/wife for divorce. Pending H.M.O.P, the respondent filed I.A.No.199 of 2008 claiming for an interim maintenance of Rs.1500/- per month and a sum of Rs.5000/- for litigation expenses. Trial Court granted interim maintenance of Rs.300/- per month and Rs.500/- towards litigation expenses. H.M.O.P filed by the petitioner was dismissed on 11.04.2012.

3.Challenging the said order of dismissal in H.M.O.P, the petitioner filed C.M.A.No.26 of 2012 on the file of the District and Sessions Court, Cuddalore. In the said appeal, the respondent filed I.A.No.233 of 2012, claiming interim maintenance of Rs.9,000/- per month for herself and two minor children and Rs.10,000/- towards litigation expenses. According to the respondent, the petitioner is working as Office Assistant in Engineering Department at Annamalai University and he is getting monthly salary of Rs.11,242/-. The respondent is not having any independent income and she is depending on her aged parents for her day-to-day expenses and educational expenses of her children. The first daughter is studying 4th standard and second son is studying U.K.G in Arunachalam Matriculation Higher Secondary School, Kurinjipadi. The school fee for the daughter is Rs.3,150/- and for his son, Rs.2,350/-. The petitioner is owning three houses in Chidambaram and is getting

Rs.10,000/- per month by way of rent and prayed for maintenance of Rs.9,000/- for herself and two children and a sum of Rs.10,000/- towards litigation expenses.

4.The petitioner filed counter affidavit and denied all the averments in the affidavit and submitted that the petitioner's gross pay is Rs.11,242/-, but his carry home salary is Rs.5,048/- and produced pay slip for the month of June 2012. He and his family members do not own any houses and getting any rental income. The respondent is working in Chemplast Company in Sipcot, Cuddalore and is earning Rs.10,000/- per month as salary. Therefore, the respondent is not entitled to any maintenance from the petitioner and also submitted that the petitioner is ready to take custody of the children for better maintenance and give education and prayed for dismissal of the application.

5.Before the learned Judge, the respondent marked three documents as Exs.P1 to P3 and petitioner marked one document as Ex.R1.

6.The learned Judge considering the averments in the affidavit, counter affidavit and documents filed by the petitioner and

respondent, directed the petitioner to pay a sum of Rs.2,000/- to the respondent and Rs.1,000/- per month to each of the minor children.

7. Against the said order dated 08.09.2014 made in I.A.No.233 of 2012 in C.M.A.No.26 of 2012, the petitioner has come out with the present Civil Revision Petition.

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

9. From the materials on record and impugned order of the learned Judge, it is seen that as per Ex.P1, carry home salary of the petitioner is Rs.5048/-, whereas as per Ex.R1 marked by the petitioner, his carry home salary is Rs.7450/-. The petitioner has stated that respondent is working in Chemplast Company in Sipcot, Cuddalore and getting Rs.10,000/- as salary. He has not substantiated this contention by filing any document. The learned Judge considering the fact that admittedly the respondent is wife of the petitioner and two children are born in the wed-lock to them, ordered a sum of Rs.1000/- each to the minor children. The said amount is not excessive. It is reasonable in view of the fact that two

children are school going children. The learned Judge has awarded a sum of Rs.2,000/- to the respondent towards interim maintenance. The contention of the petitioner is respondent is working. In view of the fact that the petitioner has not filed any document to show that respondent is working, she is getting salary and petitioner's carry home salary as per the document filed by the respondent is only Rs.7,450/-, the order of the learned Judge is modified, directing the petitioner to pay a sum of Rs.1000/- per month instead of Rs.2000/- to the respondent and Rs.1000/- to each of the two children towards interim maintenance.

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

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Index :: Yes/No
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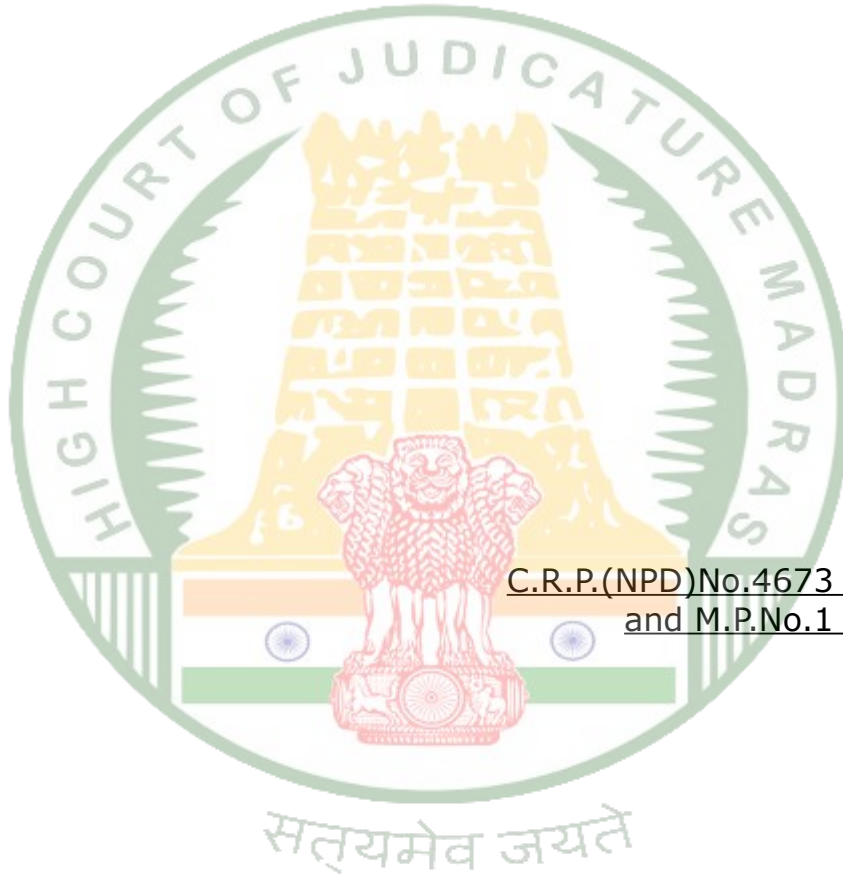
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To

The Additional District Judge,
Chidambaram,
Cuddalore District.

V.M.VELUMANI,J.

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