

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A. No.1860 of 2018
and
C.M.P.No.14391 of 2018

G.K.Prabudass @ Prabudass Kabirdass
..Appellant/Respondent/Respondent

-vs-

D.Divya
..Respondent/Petitioner/Petitioner

Civil Miscellaneous Appeal filed under Section 19 of the Famil
Courts Act, 1984 against the fair and decreetal order dated
27.06.2018 passed in IA.No.3465 of 2017 in OP.No.3230 of 2017
on the file of the IV Additional Family Court at Chennai.

For Appellant : Mr.J.Saravana Vel
For Respondent : Mr.B.Thilak Narayanan

J U D G M E N T

[Judgment of the Court was delivered by R.SUBRAMANIAN,J.]

The challenge in this appeal is to the order of interim
maintenance passed by the learned IV Additional Principal
Judge, Family Court, Chennai, directing the husband to pay a
sum of Rs.20,000/- per month at Rs.10,000/- each to the wife
and the child, apart from directing the appellant to pay the
expenses for the education of the child and litigation
expenses.

2. We have heard Mr.J.Saravana Vel, learned counsel
appearing for the appellant and Mr.B.Thilak Narayanan, learned
counsel appearing for the respondent.

3. Mr.J.Saravana Vel, learned counsel would mainly
contend that the the Court has no jurisdiction to order
payment of interim maintenance for the child under Section 24
of the Act.

4. We find some force in the said contention of the
learned counsel, however, the fact that there is a child born
out of the marriage has to be taken into account by the Court
while fixing the quantum of interim maintenance.

5. Mr.B.Thilak Narayanan, learned counsel appearing for the respondent wife would contend that the husband is Engineer working in abroad therefore the quantum of maintenance awarded by the Family Court is just and reasonable.

6. We have considered the rival submissions. While accepting the submissions of the learned counsel for the appellant regarding the direction to pay monthly maintenance to child, we are of the considered opinion that a sum of Rs.15,000/- per month would be reasonable considering the totality of the circumstances. We therefore modify the order of the trial Court as follows:-

The appellant husband shall pay a sum of Rs.15,000/- per month from 24.08.2017 as interim maintenance to the wife. The educational and litigation expenses shall be paid as directed by the trial Court.

7. In view of the above the appeal is partly allowed, the monthly interim maintenance alone is reduced to Rs.15,000/- from Rs.20,000/- per month. The appellant husband shall pay the arrears of maintenance in two equal monthly installments. The future maintenance shall be paid on or before 5th of every succeeding months. The husband shall also pay the educational expenses along with the arrears of maintenance in two equal monthly installments. The litigation expenses of Rs.25,000/- shall be paid within a period of two weeks from the date of receipt of a copy of this order. Any finding of the Family Court touching the merits of the main dispute will stand deleted. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

Dsa

Sd/-

Assistant Registrar (CS VI)

//True copy// सत्यमेव जयते

Sub Assistant Registrar

To

The IV Additional Principal Judge,
Family Court, Chennai.

+ 1 cc to Mr.B.Thilak Narayanan, Advocate Sr 72644
+ 1 cc to Mr.J.Saravana Vel, Advocate Sr 72546

KR/20/11/18

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