

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.993 of 2014
& M.P.No.1 of 2014

V.Dhinesh

.. Petitioner

Vs.

Brindha

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 10.01.2014 made in I.A.No.18 of 2013 in H.M.O.P.No.173 of 2012 on the file of the Principal Subordinate Court, Mayiladudurai.

For Petitioner : M/s.P.Kirthana Mayuri
for Mr.V.S.Jagadeesan

For Respondent : Mr.R.Meenal

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 10.01.2014 made in I.A.No.18 of 2013 in H.M.O.P.No.173 of 2012 on the file of the Principal Subordinate Court, Mayiladudurai.

2.The petitioner/husband filed H.M.O.P.No.173 of 2012 on the file of the Principal Subordinate Court, Mayiladudurai against the respondent/wife. The petitioner filed the said H.M.O.P for dissolution of the marriage conducted between them on 03.09.2012. The respondent filed counter affidavit and is contesting the said H.M.O.P. The respondent filed I.A.No.18 of 2013 under Section 24 of the Hindu Marriage Act, 1955, claiming a sum of Rs.10,000/- per month towards maintenance and Rs.10,000/- towards litigation expenses. According to the respondent, she was working as a Lecturer in Muthayee Ammal College at Rasipuram and was earning. After marriage, she resigned the job at the instigation of the petitioner and her parents. She has no income. Now, she is depending upon the meagre income of her father. The petitioner was working in foreign country and amassed lot of wealth. The petitioner's family is very affluent in the town and petitioner has substantial amount. In the circumstances, she is claiming Rs.10,000/- per month as maintenance and a sum of Rs.10,000/- towards litigation expenses.

3.The petitioner in the counter affidavit has stated that his period of contract with foreign employer was over and his service was terminated. He is now without employment and seeking for job.

The respondent is qualified as M.Sc, M.Phil., and working as a part time lecturer and is getting Rs.15,000/- per month. She has suppressed the fact that she is employed and claimed interim maintenance. The respondent is not entitled to any interim maintenance and prayed for dismissal of the application.

4.Before the learned Judge, both the petitioner and respondent have not let in any oral evidence. The petitioner has filed two documents along with the counter affidavit. The said documents, viz., the salary certificate of the respondent for the months of October and September 2013 were marked as Exs.C1 and C2.

5.The learned Judge considering the averments in the affidavit, counter affidavit and Exs.C1 and C2, wherein it shows that the respondent is earning Rs.11,000/- per month, ordered interim maintenance of Rs.4,000/- per month and Rs.5,000/- towards litigation expenses, holding that income of the respondent is not sufficient to maintain herself.

6. Against the said order dated 10.01.2014 made in I.A.No.18 of 2013 in H.M.O.P.No.173 of 2012, 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 respondent was employed as Assistant Professor in Muthayee Ammal College at Rasipuram during the months of September and October 2013. The petitioner has not produced any material to show that respondent was employed from March 2013 to August 2013 and she was earning. Exs.C1 and C2 relates to salary of the respondent for the months of September and October 2013. The learned Judge failed to consider the contention of the petitioner that his contract with foreign country was terminated and he is without employment. Considering the fact that the respondent is employed as Assistant Professor from September 2013 and petitioner is unemployed, the order of the learned Judge directing the petitioner to pay a sum of Rs.4,000/- per month is set aside and order

directing the petitioner to pay a sum of Rs.5,000/- towards litigation expenses is confirmed.

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

26.03.2018

Index :: Yes/No

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To

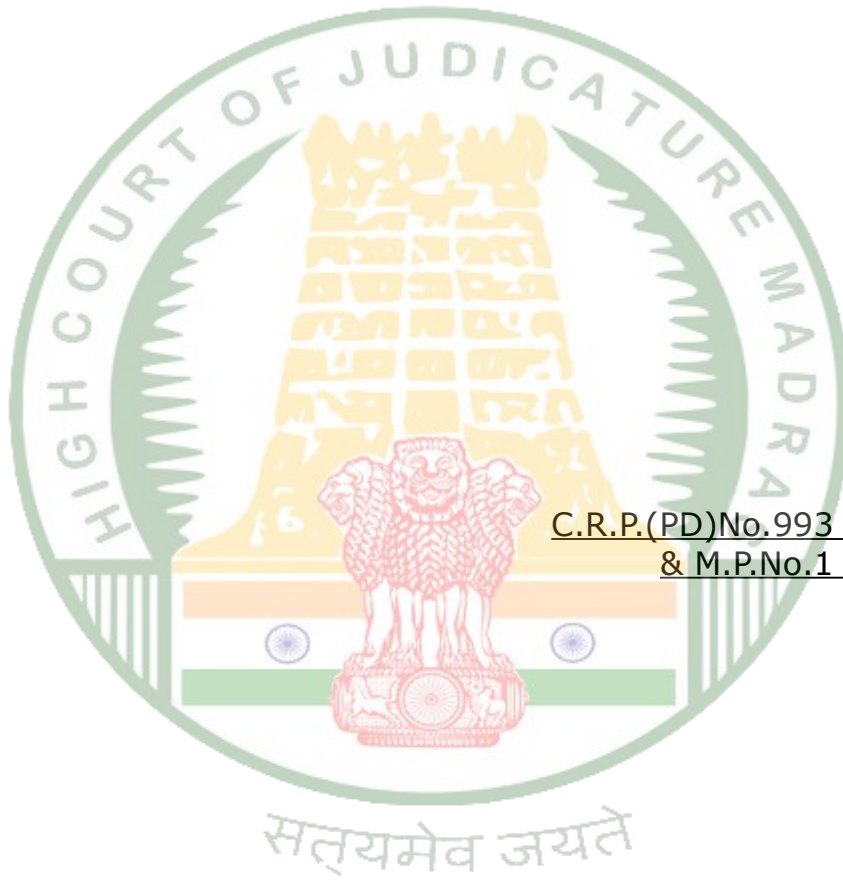
The Principal Subordinate Judge,
Mayiladudurai.



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V.M.VELUMANI,J.

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