

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

CORAM:

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

CMA.No.998 of 2018
and CMP No.8138 of 2018

Suresh Appellant / Respondent

-vs-

1. Tmt. Hemalatha
2. Minor Preethy
3. Minor Gokulavarshinee

[Minors Rep. By their mother and next
friend namely the first respondent herein]

... Respondents / Petitioner

Civil Miscellaneous Appeal filed under Section 19 of the Hindu Marriage Act, 1955, to set aside the order passed in I.A.No.58 of 2014 in F.C.O.P. No.223 of 2014, dated 14.10.2015 on the file of the Family Court Vellore, Vellore District.

For Appellant : Mr. M.Satish Kumar

For Respondents 1 to 3 : Mr. P.Mathivanan

J U D G M E N T

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

This Appeal is directed against the order of the Family Court, Vellore, in IA No.58 of 2014 in FCOP No.223 of 2014, which is an application seeking interim maintenance filed by the wife, under Section 24 of the Hindu Marriage Act.

2. The main petition in FCOP No.223 of 2014 was filed by the husband, the respondent herein, seeking divorce on the ground of cruelty. Pending the said petition, the respondent wife sought for interim maintenance at Rs.30,000/- per month and litigation expenses of Rs.20,000/-.

3. The said application was resisted by the appellant husband contending that the wife is working in a private School and earning Rs.15,000/- per month. Therefore, she would not be entitled to maintenance. It is stated that the appellant husband is a retired Army Man, drawing a pension of Rs.8,000/- and that apart, earning about Rs.2,000/- by working in a Private Company as Security Officer. Therefore, according to the appellant/husband the quantum of maintenance sought for is on the higher side.

4. The Family Court, on a consideration of evidence on record concluded that the respondent wife would be entitled to Rs.6,000/- per month towards maintenance for herself and for her minor children and Rs.3,500/- towards litigation expenses. It is this order which is challenged by the husband as excessive.

5. We have heard Mr.M.Satish Kumar, learned counsel appearing for the appellant and Mr.P.Mathivanan, learned counsel appearing for respondents 1 to 3.

6. The fact that the husband is a retired Havildar and getting a pension of Rs.16,000/- is not in dispute. Though the husband would deny that he is employed as a Security Officer in a Private Company and he is drawing about Rs.20,000/- per month, we do not find that the quantum of maintenance granted is excessive. Even taking into account the pension drawn by the husband, namely Rs.16,000/- per month, the maintenance awarded by the Family Court being only Rs.6,000/- per month is just and reasonable. We therefore do not find any reason to interfere with the order of the Family Court, granting Rs.6,000/- as maintenance and Rs.3,500/- towards litigation expenses. Pending this appeal, the respondent wife claimed that the appellant has not paid any amount towards maintenance and there is huge arrears. We therefore directed the appellant to pay 50% of the arrears amounting to Rs.2,39,000/- by 26.10.2018. It is not in dispute that the appellant has complied with the said order and he has paid 50% of the arrears as directed by us. The learned counsel appearing for the appellant would submit that because of the non-payment of maintenance, the Family Court has dismissed the Original Petition and he would seek time to pay the arrears. We find the said request to be reasonable. We therefore grant time to the appellant to pay the balance of arrears till 31.03.2019. He shall continue to pay the monthly maintenance as fixed by the Family Court and confirmed by us, on or before 10th of every succeeding month.

7. The learned counsel appearing for the respondent/wife is directed to provide the details of her Bank Account. The appellant/husband shall make arrangements to transfer the monthly maintenance to the account of the wife without any default. It is also stated that the husband has filed an Application seeking restoration of the Original Petition which was dismissed for non-payment of maintenance. On payment of entire arrears, the husband will be at liberty to seek restoration of the Original Petition and the learned Family Judge, will ensure that the entire arrears has been paid and maintenance for the subsequent period is also paid regularly. On being satisfied about such payment, the learned Family Court Judge shall restore the Original Petition and dispose it of within a period of six months from the date of restoration.

8. The appeal is dismissed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jv

To

- 1) The Judge,
Family Court Vellore,
Vellore District.

Copy to: The Section Officer,
VR section, High Court,
Madras (2 copies)

+1 cc to Mr.P.Mathivanan, Advocate, S.R.No.75739

VG-II(CO)
SSM(11/01/2019)

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