

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2018

CORAM:

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

C.M.A.No.2315 of 2013 in
MP.No. 1/2013

1.S.Kalpana

2. Minor Sureka

Minor represented by the Mother and
natural Guardian of the 1st Petitioner

: Appellant/Petitioners

versus

Sellathambi : Respondent /Petitioner

PRAYER: Civil Miscellaneous Appeal filed against the Judgment
and Decree in I.A.No.65 of 2009 in FCOP No.328 of 2008 dated
6.6.2013, on the file of Family Court, Salem.

For appellant : Ms.Priya,
for Mr.V.Raghavachari

For respondents : Mr.N.A.Ravindran

J U D G M E N T

(made by K.K.SASIDHARAN, J.)

The petitioner in I.A.No.65 of 2009 in FCOP No.328 of 2008
is before this Court for enhancement of interim maintenance
awarded by the Family Court, Salem.

2. The respondent initiated proceedings in FCOP No.328 of
2008 for dissolving the marriage on various grounds. The plea
was opposed by the appellant by filing counter. The appellant
filed an interlocutory application in I.A.No.65 of 2009 for
interim maintenance. The appellant claimed a sum of Rs.13,000/-
p.m. as maintenance for her, besides a sum of Rs.7000/- to the
minor child. There was a further request to pay Rs.10,000/-
towards litigation expenses. The application was stoutly opposed
by the respondent.

3. The Family Court, Salem, allowed the application in part and a direction was issued to the respondent to pay maintenance to the appellant at the rate of Rs.4,000/- p.m. Feeling aggrieved by the quantum awarded by the trial Court, the appellant has come up with this appeal.

4. The respondent is a civil contractor. The appellant in her application in I.A.No.65 of 2009, took up a specific contention that the respondent is the proprietor of "A & S" Construction company engaged in the construction of several residential and non residential buildings in and around Coimbatore and Yercaud. The said contention was not seriously disputed by the respondent. There was no attempt made by the respondent to prove that he was not a contractor. The respondent has also not produced his bank accounts to show that his income was meagre.

5. The appellant is unemployed. She has to maintain herself and the child.

6. After hearing the learned counsel for the parties and on a perusal of the entire materials available on record, we are of the considered view that the learned trial Judge was not correct in fixing the maintenance at the rate of Rs.4,000 p.m. We enhance the maintenance to Rs.10,000/- p.m. The maintenance amount of Rs.10,000/- shall be paid with effect from the month of January 2018. The arrears of maintenance shall be paid within a period of three months. The respondent shall continue to pay the interim maintenance awarded at the rate of Rs.10,000/- per month till the disposal of the proceedings in FCOP No.328 of 2008. The order passed by the trial court is modified.

7. The civil miscellaneous appeal is allowed as indicated above. No costs. Consequently, M.P.No.1 of 2013 is closed.

सत्यमेव जयते Sd/-

Assistant Registrar(CS-VI)

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Sub Assistant Registrar

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To

1. The Judge, Family Court,
Salem.

2. The Section Officer,
V.R. Section, High Court,
Madras.(2 copies)

+1cc to Mr.V.Raghavachari, Advocate, S.R.No. 63130

C.M.A.No.2315 of 2013

NA(CO)
GN(12/11/2018)



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