

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3881 of 2013
& M.P.No.1 of 2013

P.Munusamy

.. Petitioner

Vs.

K.Perumayee

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 04.01.2013 made in I.A.No.1 of 2010 in H.M.O.P.No.31 of 2008 on the file of the I Additional Subordinate Court, Salem.

For Petitioner : Mr.D.Shivakumaran

For Respondent : Mr.I.Abrar Md.Abdullah

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 04.01.2013 made in I.A.No.1 of 2010 in H.M.O.P.No.31 of 2008 on the file of the I Additional Subordinate Court, Salem.

2.The petitioner/husband filed H.M.O.P.No.31 of 2008 on the

file of the I Additional Subordinate Court, Salem against the respondent/wife for divorce. The respondent filed counter statement on 08.10.2009 and is contesting the H.M.O.P. The respondent filed I.A.No.1 of 2010 claiming a sum of Rs.7,000/- per month towards interim maintenance and a sum of Rs.10,000/- towards litigation expenses, pending H.M.O.P. According to the respondent, the petitioner is working as a Post Master in the Postal Department at Kolathukombai, Annupur, Valapady Taluk, Salem District and is earning Rs.10,000/- per month as salary and a sum of Rs.3,00,000/- per year as agricultural income. The respondent is unemployed and she is not having any independent income and is depending on her parents. The petitioner is not maintaining the respondent and he has got sufficient means to maintain her.

3.The petitioner filed counter affidavit and denied that he is getting Rs.10,000/- per month as salary and Rs.3,00,000/- per year as agricultural income. He has submitted that his carry home salary is Rs.6,501/- and he is not getting any agricultural income to the tune of Rs.3,00,000/- and prayed for dismissal of the application.

4.Before the learned Judge, the respondent examined herself as P.W.1 and two other witnesses as P.Ws.2 and 3 and marked 10

documents as Exs.P1 to P10. The petitioner examined himself as R.W.1 and another person, P.Gurusamy was examined as R.W.2 and marked 3 documents as Exs.R1 to R3.

5.The learned Judge considering the averments in the affidavit, counter affidavit and both the oral and documentary evidence of the parties, directed the petitioner to pay a sum of Rs.5,000/- per month towards interim maintenance from the date of petition till the disposal of the above H.M.O.P.

6.Against the said order dated 04.01.2013 made in I.A.No.1 of 2010 in H.M.O.P.No.31 of 2008, the petitioner has come out with the present Civil Revision Petition.

7.The learned counsel appearing for the petitioner contended that the petitioner's carry home salary is only Rs.6501/- and apart from that he is not getting any income. The order of the learned Judge directing the petitioner to pay a sum of Rs.5,000/- per month as interim maintenance is on higher side. The petitioner is taking care of his aged parents and after paying Rs.5,000/- per month to the respondent, the petitioner will not be in a position to maintain himself and his aged parents.

8. Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent entered appearance through counsel, today there is no representation for her either in person or through counsel.

9. From the materials available on record, it is seen that the petitioner is working as Post Master and his carry home salary is Rs.6,501/- and he filed salary certificate to prove his contention. The respondent has produced documents relating to the immovable properties. Except one property, all the properties are standing in the name of the petitioner's father. The respondent has not produced any evidence to show that petitioner is getting income from the properties standing in his name. The learned Judge failed to consider that respondent has not substantiated her contention that petitioner is getting income from agriculture. It is not the case of the petitioner that respondent is having independent income to maintain herself. The petitioner as a husband is liable to maintain the respondent. Considering the salary certificate produced by the petitioner and the contention of the learned counsel for the petitioner, the order of the learned Judge awarding a sum of Rs.5,000/- per month as interim maintenance is modified, directing

the petitioner to pay a sum of Rs.2,500/- per month from the date of petition.

10. With the above direction, this Civil Revision Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed. Since the H.M.O.P is of year 2008, the learned I Additional Subordinate Judge, Salem is directed to dispose of the H.M.O.P on day-to-day basis, as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order.

21.02.2018

Index : Yes/No

Speaking Order/ Non-Speaking Order

gsa

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To

The I Additional Subordinate Judge,
Salem.

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V.M.VELUMANI,J.

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