

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4307 of 2013
& M.P.No.1 of 2013

P.Santhoshkumar

.. Petitioner

Vs.

S.Jansirani

.. Respondent

PRAYER: Civil Revision Petition filed under Section 227 of the Constitution of India to set aside the fair and decretal order dated 08.02.2013 made in I.A.No.29 of 2012 in H.M.O.P.No.85 of 2011 on the file of the Sub Judge, Tirupattur, Vellore District.

For Petitioner : Mr.D.Balachandran

ORDER

सत्यमेव जयते

This Civil Revision Petition is filed to set aside the fair and decretal order dated 08.02.2013 made in I.A.No.29 of 2012 in H.M.O.P.No.85 of 2011 on the file of the Sub Judge, Tirupattur, Vellore District.

2.The petitioner is husband and respondent is the wife in H.M.O.P.No.85 of 2011 on the file of the Sub Judge, Tirupattur, Vellore District. The petitioner filed the said H.M.O.P against the respondent for divorce. Pending H.M.O.P, the respondent filed I.A.No.29 of 2012 under Section 24 of Hindu Marriage Act for interim maintenance, claiming Rs.5,000/- for herself, Rs.3,000/- for her minor child and Rs.2,000/- for litigation expenses. According to the respondent, she has no independent income to maintain herself and her minor son. The petitioner had married one Jaychithra at Hyderabad and doing business there.

3.The petitioner filed counter affidavit and denied all the allegations of the respondent and submitted that he has filed H.M.O.P.No.68 of 2010 for restitution of conjugal rights and after obtaining decree in the said H.M.O.P, the respondent did not join with the petitioner. The petitioner filed G.W.O.P.No.26 of 2011 for custody of the minor son and the same is pending. The respondent has given false complaint against the petitioner and his parents under Domestic Violence Act and filed petition before Judicial Magistrate Court, claiming maintenance. The respondent has not obeyed the order of the Court passed for restitution of conjugal

rights. In the said circumstances, the respondent is not entitled to any maintenance from the petitioner and prayed for dismissal of the above application.

4.The learned Judge considering the fact that the respondent is not having any independent income to maintain herself and her minor son, ordered payment of Rs.1500/- per month to herself and Rs.1000/- per month to the minor child, towards interim maintenance.

5.Against that order dated 08.02.2013 made in I.A.No.29 of 2012 in H.M.O.P.No.85 of 2011, the petitioner has come out with the present Civil Revision Petition.

6.Though the Civil Revision Petition is filed in the year 2013, no notice was ordered.

7.Heard the learned counsel for the petitioner and perused the materials available on record.

8.The contention of the learned counsel for the petitioner that the respondent is not entitled to any maintenance and that inspite

of order of restitution of conjugal rights in H.M.O.P.No.68 of 2010 filed by the petitioner, the respondent has not joined with the petitioner. This contention is not tenable. The petitioner has filed the present H.M.O.P.No.85 of 2011 for divorce. Pending H.M.O.P filed for divorce, the respondent is entitled for interim maintenance for herself and for her minor son. It is not the case of the petitioner that respondent is not maintaining her minor child. It is the duty of the petitioner to maintain his wife and child. Therefore, there is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 08.02.2013 made in I.A.No.29 of 2012 in H.M.O.P.No.85 of 2011.

9.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.02.2018

Index : Yes/No

gsa

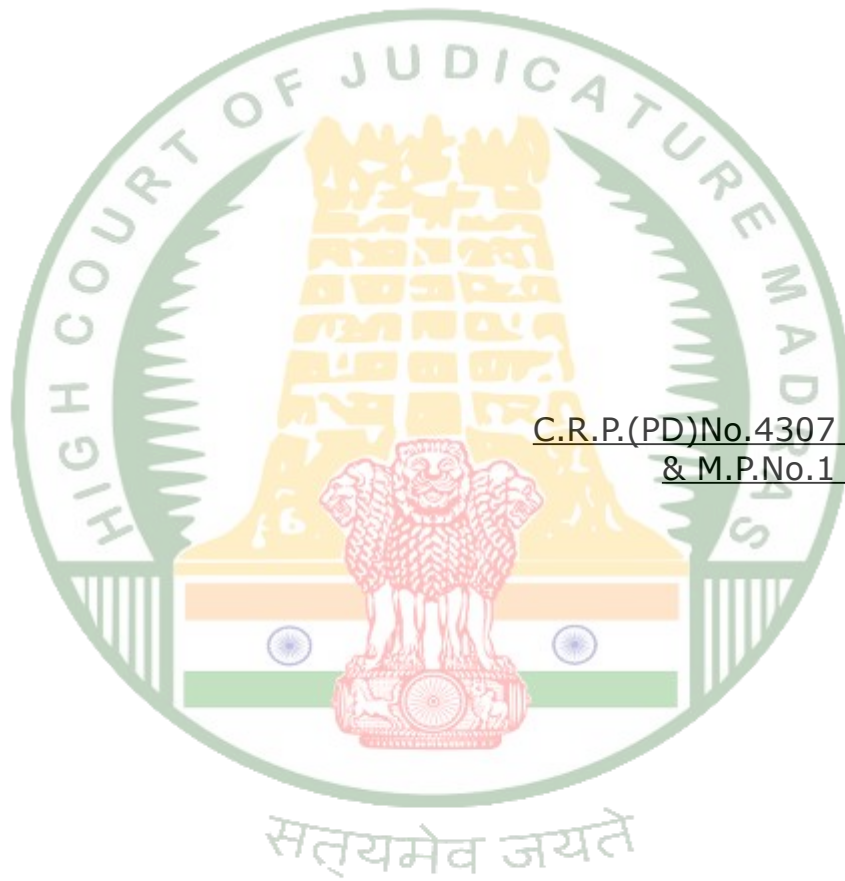
To

The Sub Judge,
Tirupattur, Vellore District.

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V.M.VELUMANI,J.

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