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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.431 of 2018

and

C.M.P. (MD) No.1895 of 2018

1.A.Mary Chithra .. 1st petitioner/1st petitioner/Respondent
2.Minor Alwin
(Mentally Disordered and Physically
Challenged child, represented by his
mother and guardian, 1st petitioner herein)
.. 2nd petitioner/2nd petitioner

/Vs./

R.Anthoni Selvaraj .. Respondent/Respondent/Petitioner

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the petition order passed in I.A.No.9 of 2017 in I.D.O.P.No.64 of 2016, dated 13.02.2018 on the file of the Additional District Court (FTC), Tenkasi and to enhance the monthly maintenance from Rs.13,000/- to Rs.25,000/- and the litigation expenses from Rs.5,000/- to Rs.50,000/- by allowing this Civil Revision Petition.

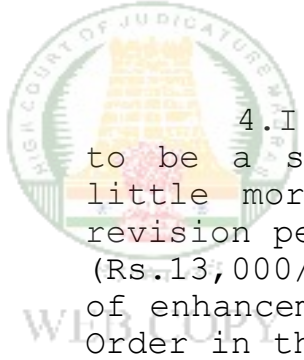
For Petitioners : Mr.D.Srinivasaragavan
For Respondent : Mr.R.Vijayakumar

ORDER

The first revision petitioner is the respondent in I.D.O.P.No.64 of 2016 on the file of the Additional District Court (FTC), Tenkasi. The said I.D.O.P was instituted by the respondent claiming divorce. In the said I.D.O.P.No.64 of 2016, I.A.No.9 of 2017 was filed by the petitioners herein. The second petitioner herein is a special child born to the first petitioner and the respondent. The Court below ordered a payment of Rs.13,000/- as interim maintenance (Rs.10,000/- for the child and Rs.3,000/- for the wife) and Rs.5,000/- as litigation expenses. Contending that it must be enhanced, the petitioners have filed this civil revision petition.

2.Heard the learned counsel on either side.

3.It is seen that the respondent herein is working as a teacher in the Government School. The learned counsel for the respondent submits that after deduction of tax, the respondent would receive a sum of Rs.35,000/- per month. He also contended that the respondent should take care of his aged parents.



4.I am of the view that since the second petitioner happens to be a special child, the Court below ought to have awarded a little more. Therefore, the interim maintenance payable to the revision petitioners can be enhanced from Rs.13,000/- to Rs.16,000/- (Rs.13,000/- for the son and Rs.3,000/- for the wife). This order of enhancement will come into force from the date of passing of the Order in this Civil Revision Petition.

5.The learned counsel appearing for the Revision Petitioner submitted that the Interim maintenance ordered by the Court below is not being regularly paid. This statement is controverted by the learned counsel for the respondent.

6.I make it clear that unless the order of the interim maintenance is scrupulously complied with by the respondent, the Court below shall dismiss the petition itself. The Court below cannot compel the revision petitioner to cross examine the respondent herein even if the respondent has not complied with the order regarding the payment of interim maintenance. With this clarification this Civil Revision petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The Additional District Judge, (FTC), Tenkasi.

Copy To:

The Section Officer, VR Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**

+1CC to Mr.D.Srinivasaragavan, Advocate, SR.No. 79814

+1CC to Mr.R.Vijayakumar, Advocate, SR.No. 79492

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