



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 11.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A (MD) NO.467 Of 2018
and
C.M.P (MD) No.5547 of 2018

Ravi : Appellant/Respondent/Respondent

.Vs.

Benita Angelena Esther : Respondent/Petitioner/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under 19(1) of the Family Courts Act praying this Court to set aside the order passed by the Family Court, Tirunelveli in I.A.No.303 of 2017 in S.M.O.P.No.169 of 2017, dated 29.11.2017.

For Appellant : M/s.M.Sankar
For Respondent : No Appearance

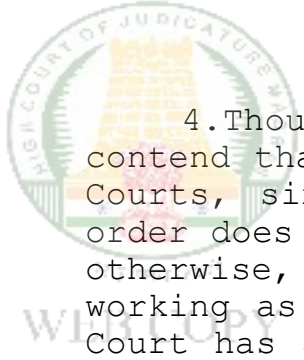
JUDGMENT

[Judgment of the Court was made by K.RAVICHANDRABAABU, J.]

This Civil Miscellaneous Appeal is filed, aggrieved against the interim order passed by the Family Court, Tirunelveli in I.A.No.303 of 2017 in S.M.O.P.No.169 of 2017, dated 29.11.2017.

2.The appellant is the husband and the respondent is the wife. They have two children viz., a daughter and a son, studying in 10th standard and 8th standard respectively. Due to certain matrimonial dispute, the respondent/wife filed S.M.O.P.No.169 of 2017 seeking for dissolution of marriage held between the appellant and the respondent. Pending such O.P., the respondent herein filed a petition under Section 36 of the Special Marriage Act, 1964 seeking for interim maintenance at the rate of Rs.20,000/- for herself and Rs.15,000/-each for their children, apart from Rs.73,300/- towards educational expenses of their children. The appellant herein has not filed any counter affidavit nor argued the matter before the Family Court against grant of maintenance. This is evident from the reading of the order passed by the Family Court.

3.The Family Court after considering the facts and circumstances found that the appellant is bound to maintain the respondent and his children. Accordingly, the Family Court awarded interim maintenance of Rs.5,000/-p.m for the respondent and their two children and Rs.30,000/- towards educational expenses for the children. Challenging the same, the present Civil Miscellaneous Appeal is filed by the appellant/husband.



4. Though the learned counsel for the appellant sought to contend that the counter affidavit was not filed before the Family Courts, since sufficient time was not granted, a perusal of the order does not indicate any such request made by the appellant. Even otherwise, considering the admitted position that the appellant is working as Siddha Doctor and considering the fact that the Family Court has awarded only a sum of Rs.5,000/- as interim maintenance to the wife and children, more particularly, when those children are school going children studying in 10th standard and 8th standard respectively, as stated supra, We are of the view that when the interim maintenance granted by the Family Court itself is very minimal, it is not required to interfere with such quantum, that too at the instance of the appellant/husband. Needless to say that the rights and contentions of the parties in the Original Petition have to be considered and adjudicated by the Family Court, where the matter is still pending. As the present arrangement is by way of interim maintenance and that the appellant is duty bound to maintain his wife and children, We find no infirmity in the order of the Family Court, Tirunelveli. Accordingly, Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Judge,
Family Court,
Tirunelveli.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**

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and

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VSN

ES/SKN/RSK/SAR 4/27.07.2018/2P/4C