



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.518 OF 2018

and
C.M.P (MD) No.6088 of 2018

M.Murugan

:Appellant/Respondent

.vs.

1. Krishnaveni

2. Vigneshwaran, minor,
(represented by his mother and natural guardian,
the first respondent herein) : Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 19(1) of the Family Courts Act praying this Court to set aside the order passed by the Family Court, Sivagangai in M.C.No.06 of 2015, dated 30.06.2017.

For Appellant

:M/s.P.Arun Jayatram

For Respondents
1 and 2

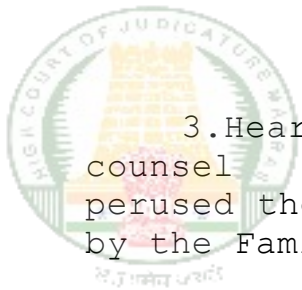
:Mr.P.Venkatasubramanian

JUDGMENT

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

This Civil Miscellaneous Appeal is filed against the order made in a maintenance case in M.C.No.06 of 2015, dated 30.06.2017.

2.The respondents herein as Petitioners before the Family Court, Sivagangai, filed a petition under Section 125 of Criminal Procedure Code claiming monthly maintenance from the appellant herein at the rate of Rs.20,000/- for both the respondents. The first respondent is the wife and the second respondent is the minor son of the appellant herein. The Family Court, Sivagangai after considering the respective pleadings of the parties and the evidence let in by them, found that the appellant herein is bound to pay monthly maintenance to the respondents and accordingly, ordered payment of Rs.5,000/-p.m to the first respondent/wife and Rs.3,000/-p.m to the second respondent/minor son.



3. Heard the learned counsel for the appellant and the learned counsel appearing for the respondents 1 and 2. We have also perused the materials placed before us, including the order passed by the Family Court, Sivagangai.

4. The appellant, admittedly filed a divorce petition against the first respondent herein in H.M.O.P.No.105 of 2014 and got a decree of divorce. It is also not in dispute that the said decree was put to challenge before this Court by the first respondent herein and the said appeal is still pending. Now, the respondents sought for monthly maintenance from the appellant, as stated supra. It is not in dispute that the appellant is a practising Advocate and was also one time Secretary of the Bar Association of Sivagangai Advocates Bar. It is seen that the appellant is having 14 years of standing in the Bar. The Family Court, Sivagangai, apart from taking note of all those facts, also considered the documentary evidence produced by the respondents herein, more particularly, Ex.P3-Patta to find that the appellant is also owning lands both dry and wet. Therefore, the Family Court, Sivagangai came to the conclusion that the appellant herein has sufficient landed properties and having considerable earning from the agriculture, apart from the earning from his practice as an Advocate, which according to the respondents is Rs.50,000/-p.m. The Family Court has also taken note of the fact that the first respondent herein was not doing any job at the time of filing the Petition, even though she was working as a Teacher earlier. Therefore, the Family Court found that these respondents are not in a position to maintain themselves and consequently, the appellant being the husband of the first respondent and father of the second respondent, is bound to maintain them. Thus, the Family Court, Sivagangai awarded only a sum of Rs.5,000/-p.m to the first respondent/wife and a sum of Rs.3,000/-p.m to the second respondent/minor son, even though the claim made in the Petition is Rs.20,000/- as a whole, in the Petition. We find the quantum of maintenance awarded by the Family Court, Sivagangai is very minimal and does not require any interference, more particularly, when the facts and circumstances as discussed supra would disclose that the appellant, who is bound to maintain the respondents, has not made out a case for such interference. Accordingly, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

The Judge,
Family Court,
Sivagangai.

+1cc to Mr.P.Venkatasubramanian, Advocate Sr.No.72454

VSN

VB/SKN/RSK/SAR2/20.07.2018/3P/3C

**JUDGMENT MADE IN
C.M.A (MD) NO.518 OF 2018
and
C.M.P (MD) No.6088 of 2018
11.07.2018**