



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.2119 of 2016 and
C.M.P.(MD)No.9936 of 2016

Muthunachiyar ... Petitioner/Petitioner/
Respondent

Vs.

Muthuraja ... Respondent/Respondent/
Petitioner

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order dated 13.06.2016 in I.A.No.47 of 2016 on the file of the Family Court, Srivilliputhur, in H.M.O.P.No.111 of 2014 and set aside the same by allowing this Civil Revision petition and consequently, struck off the H.M.O.P.No.111 of 2014 pending on the file of the Family Court, Srivilliputhur.

For Petitioner : M/s.K.Muthumalai

For Respondent : Mr.R.Subramaniyan

O R D E R

H.M.O.P.No.111 of 2014 has been filed by the respondent herein before the Family Court, Srivilliputhur, seeking dissolution of his marriage with the Revision petitioner herein. In the said H.M.O.P., the Revision petitioner filed I.A.No.47 of 2016 for striking off the H.M.O.P., itself. The ground on which the Revision petitioner filed the said application was that the respondent herein did not comply with the order to pay interim alimony in an earlier H.M.O.P.No.108 of 2007. But the Court below dismissed the said application filed by the Revision petitioner herein. The correctness of the said order is questioned in this Civil Revision petition.

2. I am of the view that the respondent herein ought to have been directed to clear the arrears and ought not to have been allowed to prosecute his petition further without doing so. Therefore, the order passed by the learned Judge, Family Court, Srivilliputhur, in I.A.No.47 of 2016 in H.M.O.P.No.111 of 2014, dated 13.06.2016, is set aside.



3. The learned counsel for the respondent on instructions submits that he would pay a sum of Rs.1,00,000/- by way of Demand Draft drawn in favour of the Revision petitioner within a period of one week from the date of receipt of a copy of this order.

4. The learned Judge, Family Court, Srivilliputhur, is directed to dispose of H.M.O.P.No.111 of 2014 on merits. The Revision petitioner herein shall not be allowed to take the plea that the present H.M.O.P.No.111 of 2014 is not maintainable, because of dismissal of the earlier H.M.O.P.No.108 of 2007. The Revision petitioner is at liberty to canvass all the other contentions. It is made clear that the maintenance order obtained by the Revision petitioner in M.C.No.10 of 2011 on the file of the learned Chief Judicial Magistrate, Srivilliputhur, will stand on its own and of course subject to adjustment in respect of the amount paid as Interim Alimony in H.M.O.P.No.108 of 2007.

5. The Civil Revision petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(CRL.SIDE)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Judge,
The Family Court, Srivilliputhur.
2. The Chief Judicial Magistrate, Srivilliputhur.

Copy to

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. 2 COPIES

- 1 CC TO M/s.K.Muthumalai, ADVOCATE IN SR No. 82265.
- + 1 CC TO Mr.R.Subramaniyan , ADVOCATE IN SR No. 82245.

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