

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. (NPD) Nos. 3453 of 2019

and

C.M.P. No. 22705 of 2019

Thiru. Jayaseelan ... Petitioner

-Vs-

Sulochana ... Respondent

Prayer : Petition filed under Section 115 of Civil Procedure Code against the order and decretal order made in I.A. No. 2966 of 2010 in O.S. No. 167 of 2002 dated 09.02.2018 passed by the IV Additional Principal Judge, Family Court of Chennai.

For Petitioner : Mr. S. Thamizharasi
For Respondent : Mr. P. Rajendran

ORDER

This Civil Revision Petition has been filed against the fair and decretal order made in I.A. No. 2966 of 2010 in O.S. No. 167 of 2002 on the file of the IV Additional Principal Judge, Family Court, at Chennai,

by order dated 09.02.2018.

2. Before the Family Court, originally the suit in O.S. No. 167 of 2002 was filed by the respondent / wife for maintenance, of course by way of consent decree, a sum of Rs.1,250/- was directed to be paid by the revision petitioner / husband to the respondent / wife.

3. Since some years have gone, by that, the said amount of Rs. 1,250/- due to price index may not be a sufficient sum to maintain her life, hence the wife seems to have prayed the Court below with the present I.A. No. 2966 of 2010 seeking for enhancement of the monthly maintenance by way of review of the said order in the said I.A. After hearing both sides, the Family Court through the impugned order has enhanced the monthly maintenance payable by the revision petitioner to the respondent / wife from Rs.1,250/- to Rs.2,500/- and also the provision of enhancement of Rs.500/- as maximum cap for every year. Aggrieved over the same, the present revision petition has been filed by the revision petitioner / husband.

4. Heard Mr. S. Thamizharasi, learned counsel appearing for

the revision petitioner and Mr. P. Rajendran, learned counsel appearing for the respondent who entered appearance through Caveat on behalf of the respondent.

5. Mr. S. Thamizharasi, learned counsel appearing for the revision petitioner would submit that, the revision petitioner is only a Pensioner and he is getting Rs. 13,682 /- as pension and he is a formal employee of the Port Trust and out of the said pension amount of Rs. 13,682 /- apart from looking after him, he has to look after the three children and also to pay the already agreed maintenance amount of Rs. 1,250/- to the wife and if at all, any increase is made, it could not be a 100% increase of Rs. 1,250/- to Rs. 2,500/- and therefore, such an exorbitant increase, according to the learned counsel for the petitioner, ought not to have been made by the Court below through the impugned order, hence it requires interference from this Court.

6. I have also heard Mr. P. Rajendran, learned counsel appearing for the respondent, who would submit that, there had been a huge arrears even according to the agreed maintenance amount.

7. Be that as it may, as of now, the subject matter is whether the enhancement of monthly maintenance made by the Court below through the impugned order to the extent of Rs 2,500/- per month with the provision of annual increase of Rs.500/- payable by the revision petitioner to the respondent / wife is sustainable or not.

8. I have gone through the order passed by the Court below and I have considered the said submissions made by both sides, especially the submission made by the learned counsel for the revision petitioner.

9. Admittedly, the revision petitioner is a Pensioner and he is getting Rs.13,682 /- per month. The three children mentioned by the petitioner are grown up children and they got married according to the learned counsel for the petitioner. Therefore, it cannot be said, those children can be maintained by the revision petitioner.

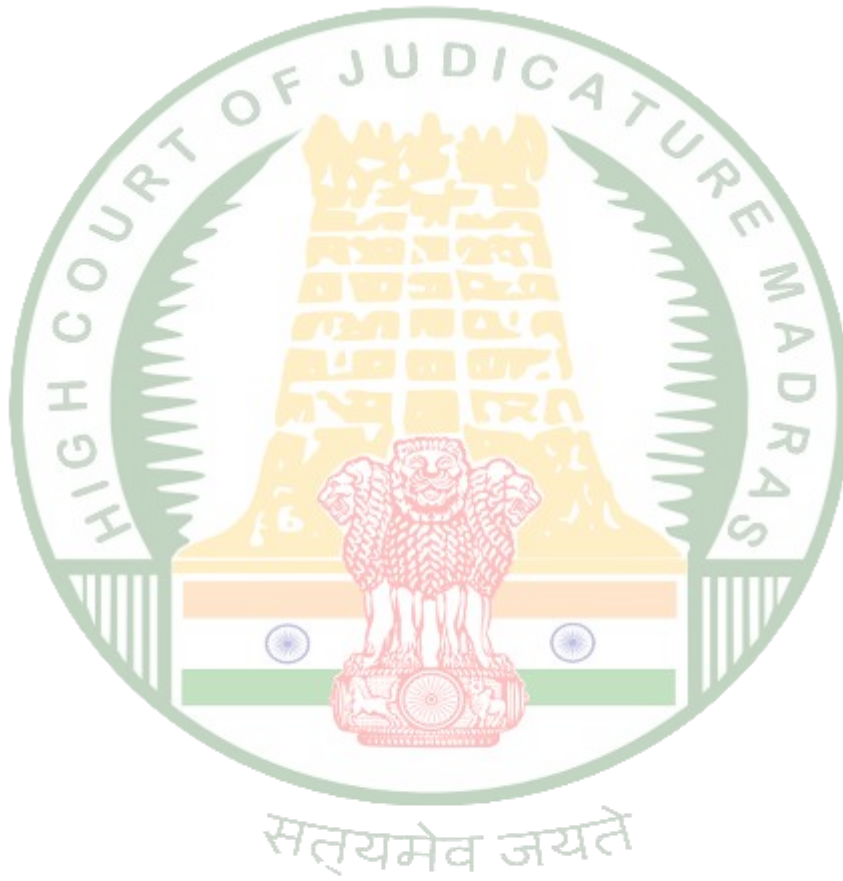
10. As far as the respondent / wife is concerned, she is entitled

to get the maintenance and already there has been a consent decree to that effect and even though the sum of Rs. 1,250/- was allowed already as monthly maintenance, due to the considerable increase in price index, the said respondent / wife since could not survive to meet both ends with a sum of Rs. 1,250/- per month, seems to have approached the Court below for enhancement and accordingly, the learned Judge considering all aspects, have increased the said amount to Rs. 2,500/- per month.

11. Even after the increase of Rs. 2,500/- per month payable by the petitioner to the respondent, out of his present pension of Rs.13,682/-, it may get increased from time to time, the said amount of Rs. 2,500/-, in the considered opinion of this Court, is not on the higher side and without the said amount of Rs. 2,500/-, no one can lead the life in the present scenario. सत्यमेव जयते

12. In that view of the matter, this Court feels that, the said impugned order, which includes the provision for a periodical enhancement of Rs.500/- every year, as that will also based on the price

index, can very well be sustained.



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R. SURESH KUMAR, J.

vji / kmm

13. In view of the aforesaid facts and circumstances, this Court finds no reason to interfere with the impugned order and the Civil Revision Petition is dismissed accordingly. Consequently, connected Miscellaneous Petition is also closed. No costs.

24.10.2019

Index: Yes / No
Speaking order / Non speaking order

vji / kmm

To
The learned IV Additional Principal Judge,
Family Court of Chennai.

सत्यमेव जयते
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