

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A. No. 3341 of 2013
& M.P.Nos.1 of 2013 & 1 of 2015

R.Arjunan ... Appellant
Vs.
Mahalakshmi ... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, against the fair and decreetal order dated 16.09.2013 passed in I.A.No.1695 of 2011 in O.P.No.4042 of 2010 on the file of the I Additional Principal Judge, Family Court, Chennai.

For Appellant : Mr.C.R.Rukmani
For respondent : No appearance

JUDGMENT

(Judgment of the Court was made by M.M.Sundresh,J.)

The petitioner is the husband of the respondent. O.P.No.4042 of 2010 has been filed by the appellant seeking divorce. During the pendency of the aforesaid proceeding, two applications in I.A.Nos.1694 and 1695 of 2011 in O.P.No.4042 of 2010 have been filed by the respondent seeking litigation expenses and maintenance pending the main case. The respondent accordingly sought for a sum of Rs.10,000/- towards litigation expenses and Rs.10,000/- per month towards interim maintenance. The I Additional Principal Judge, Family Court, Chennai, by an order dated 16.09.2013, awarded Rs.5,000/-towards litigation expenses and Rs.3000/- per month towards interim maintenance from 11.04.2011 to February, 2013 and thereafter, Rs.4,000/- per month till the disposal of the main original petition. Challenging the same, the present civil miscellaneous appeal has been filed.

2.The learned counsel appearing for the appellant would submit that it is the second round of litigation. The respondent has already filed an application in M.P.No.432 of

2006 in M.C.No.227 of 1998 seeking enhancement of the maintenance ordered in M.C.No.227 of 1998 on 09.02.2004. Even the present original petition is ripe for disposal. There was a partition in her family. Thus, this appeal has to be allowed.

3. We do not find any merit in this appeal. The I Additional Principal Judge, Family Court, Chennai, took into consideration of the financial capacity of the appellant, including his salary. Mere pendency of the application in M.P.No.432 of 2006 in M.C.No.227 of 1998 seeking enhancement would not take away the right of the respondent seeking interim suspension. In any case, the said application is yet to be disposed of. We do not find any material with respect to the alleged partition and even assuming so, whether the property allotted to the respondent would be sufficient enough to take care of herself is not known. Though the respondent has sought for both litigation expenses and interim maintenance, the I Additional Principal Judge, Family Court, Chennai, has awarded only Rs.5,000/- towards litigation expenses and Rs.3000/- per month towards interim maintenance till February 2013 and thereafter, Rs.4,000/- per month till the disposal of the original petition. Inasmuch as the marriage between the parties are not in dispute, we find that the order passed by the I Additional Principal Judge, Family Court, Chennai, is just and reasonable. Accordingly, the civil miscellaneous appeal stands dismissed. However, taking into consideration that the O.P.No.4042 of 2010 is pending for nearly nine years, we direct the I Additional Principal Judge, Family Court, Chennai, to dispose of the same within a period of four months from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petitions are also dismissed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

raa

To:

The I Additional Principal Judge,
Family Court,
Chennai.

C.M.A.No.3341 of 2013

VBA (CO)
SP(01/10/2020)