

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2406 of 2016

P. JOHNSIRANI ... appellant/Respondent

Vs

R. MOHANKUMAR ... respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed to set aside the fair and decreetal order dated 09/05/2016 passed in I.A. 206 of 2014 (I.A.1348/13 in P.FC.) in H.M.O.P.No.524 OF 2013) on the file of Additional Principal Family Court, Coimbatore and thus render justice.

For appellant : Ms.Prithivi,
for Mr.A.K.Kumaraswamy

For respondents : Mr.Ananda Ramani

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

This Civil Miscellaneous Appeal is directed against the order dated 09.05.2016 in I.A.No.206 of 2014 in HMOP.No.524 of 2013 fixing the interim maintenance payable to the appellant at Rs.3,000/- per month. The appellant is aggrieved by the quantum of maintenance fixed by the Additional Principal Family Court, Coimbatore in a matrimonial proceedings initiated by the respondent for dissolution of marriage.

2. The marriage of the appellant with the respondent was solemnized on 19.05.2010. There are no issues in the said marriage. The respondent, alleging acts of cruelty, filed Original Petition in O.P.No.524 of 2013 before the Family Court, Coimbatore for dissolution of Marriage.

3. The appellant filed a Miscellaneous Petition invoking Section 24 of the Hindu Marriage Act, for interim maintenance.

4. The appellant claimed that the respondent is beneficially employed in M/s. Adwaith Lakshmi Industries Private

Limited, Kaniyur Post, Karumathampatti and he has been earning a sum of Rs.15,000/- per month. The claim was to pay maintenance at the rate of Rs. 10,000/- per month.

5. The Miscellaneous Petition was resisted by the respondent by contending that the appellant is employed and is receiving a sum of Rs.8,000/- per month.

6. The Additional Principal Judge, Family Court, Coimbatore on a consideration of the salary certificate relating to the respondent fixed the monthly maintenance at the rate of Rs.3,000/- per month. Feeling aggrieved by the grossly inadequate monthly income fixed by the Family Court, the petitioner in I.A.No.206 of 2014 has come up with this Civil Miscellaneous Appeal.

7. We have heard the learned counsel for the appellant and the learned counsel for the respondent.

8. The only question that arises for consideration is as to whether the Family Court was justified in fixing the interim maintenance at the rate of Rs.3,000/- per month.

9. Before the Family Court Ex.R1 and Ex.P1 were marked to show the salary of the respondent. Those documents indicate that the respondent was earning a sum of Rs.10,150/- per month in November 2013 and Rs.15,226/- for the month of April 2014.

10. The Trial Court fixed the interim maintenance at Rs.3,000/- per month taking into account the net salary of the respondent.

11. The Miscellaneous Petition was filed on 12.08.2013 for maintenance. The Trial Court passed the interim order on 09.05.2016. In view of the efflux of time, we directed the respondent to produce his latest salary slip. The salary slip produced would indicate that his present salary is a sum of Rs.23,119/- per month. Even after statutory deduction, the salary would come to a sum of Rs.21,214/- per month. There are no documents before this Court to show that the appellant is beneficially employed.

12. Since the matrimonial proceeding was initiated by the respondent, it is his bounden duty to maintain the appellant at least during the currency of the proceedings. The monthly maintenance fixed by the Trial Court appears to be too low taking into account the cost of living and the salary of the respondent.

13. After hearing the learned counsel for the parties and on a perusal of the documents available on record, we are of the

view that interest of Justice would be sub-served by fixing the monthly maintenance at the rate of Rs.7,000/- per month with effect from 01.01.2019.

14. We direct the respondent to pay the entire arrears of maintenance at the rate of Rs.3,000/- per month from 12.08.2013 to 31.12.2018. He should pay the revised monthly maintenance at the rate of Rs.7,000/- per month from 01.01.2019.

15. The entire arrears should be paid within a period of four (4) weeks from today. The respondent shall also pay the monthly maintenance at the rate of Rs.7,000/- per month pending disposal of the matrimonial proceedings.

16. The Civil Miscellaneous Appeal is allowed in part as indicted above. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrn

To

1.The Additional Principal Judge,
Family Court, Coimbatore.

+1cc to Mr.Ananda Ramani, Advocate SR.83086

+1cc to Mr.S.Kaithamalai Kumaran, Advocate SR.82698

C.M.A.No.2406 of 2016

NMI (CO)

CB(31/10/2019)

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