

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2019

CORAM:

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

C.M.A.No.1213 of 2018
and C.M.P.No.9883 of 2018

S.Ganesan

... Appellant

vs.

1. G.Kalaivani

2. Madhumitha (Minor)
Rep. by the Mother and
Natural Guardian 1st respondent

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act, against the fair and decreetal order dated 30.08.2016 made in I.A.No.402 of 2013 in H.M.O.P.No.67 of 2012 on the file of the Hon'ble Court of Subordinate Judge, Poonamallee.

For Appellant : Mr.M.John Kennady

For Respondents : Mr.S.Sadasharam

JUDGMENT

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

This Civil Miscellaneous Appeal is directed against the order dated 30.08.2016 in I.A.No.402 of 2013 in H.M.O.P.No.67 of 2012 on the file of the Sub Court, Poonamallee, directing the appellant to pay a total amount of Rs.3,000/- as maintenance to the respondents.

2. The matrimonial proceedings in HMOP No.67 of 2012 was initiated by the first respondent against the appellant herein for a decree of restitution of conjugal rights invoking Section 9 of Hindu Marriage Act,1955. In the said proceedings, the respondent filed an interim application in I.A.No.402 of 2013 for interim maintenance.

3. The trial Court, directed the appellant to pay maintenance to the respondents. The direction was to pay a total amount of Rs.3,000/- as maintenance to the respondents.

4. When the appeal came up for hearing on an earlier occasion, the appellant through his counsel contended that his brother has been collecting the entire amount and as such he is not in a position to pay the monthly maintenance to the respondents. In view of the said submission, we directed the appellant to file a memo indicating the total rent payable by the tenants to him as well as to the other legal heirs.

5. The memo filed by the appellant dated 14.10.2019 indicates that a sum of Rs.15,900/- is payable by four tenants to the family of the appellant. The appellant is entitled to 1/5 share in the monthly rent.

6. The learned trial Judge taking into account the background facts, directed the appellant to pay maintenance to the respondents fixing the quantum at Rs.3,000/-. We are of the view that no interference is needed in the order passed by the learned trial Judge.

7. We direct the tenant by name M/s.Murugan Stores, Provision Shop, Prop:- Muthu Nadar, No.244, I Main Road, Banu Nagar, 2nd Avenue, Pudur, Ambattur, Chennai - 600 053, to pay a sum of Rs.3,000/- to the respondents out of the monthly rent payable by him to the appellant and other legal heirs. The liability of the said Muthu Nadar, Proprietor of M/s.Murugan Stores, Provision Shop, is only to pay the balance amount to the landlord meaning thereby the amount after deducting the above sum of Rs.3,000/- per month alone is liable to be paid to the landlord. The maintenance amount should be paid till the disposal of the original petition in H.M.O.P.No.67 of 2012, as per the above arrangement.

8. The payment made by Thiru.Muthu Nadar to the respondents pursuant to this order would be a valid discharge of the liability to pay the rent to the landlord to the extent of such payment.

9. The Civil Miscellaneous Appeal is disposed of as indicated above. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

vsm

To

- 1) The Subordinate Judge,
Sub-Court, Poonamallee.
- 2) Muthu Nadar,
Proprietor,
No.244, I Main Road,
Banu Nagar, 2nd Avenue,
Pudur, Ambattur,
Chennai - 600 053.

+1 cc to M/s.S.Sadasharam, Advocate, S.R.No.85719

C.M.A.No.1213 of 2018
and C.M.P.No.17081 of 2016

BP(CO)
SSM(21/10/2019)