

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2019

Coram

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH  
and  
THE HONOURABLE MR. JUSTICE C.SARAVANAN

C.M.A.No.1798 of 2019  
and  
C.M.P.No.5823 of 2019

M.Prabakaran ... Appellant / Respondent

vs.

1.E.Punitha

2.Minor Ajay  
rep. by his mother and natural  
guardian Punitha/R1 ... Respondents / Petitioners

Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 against the fair and decretal order dated 20.03.2018 made in I.A.No.5 of 2018 in H.M.O.P.No.101 of 2015 on the file of the Subordinate Court, Ponneri.

For Appellant : Mr.R.Arun Kumar

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

Appellant is the respondent in the application filed in I.A.No.5 of 2018. The said application has been filed in the divorce petition filed by the appellant. Though the first respondent sought for Rs.15,000/- as interim maintenance for her and Rs.10,000/- for the second respondent/minor son, the Court below has awarded only a sum of Rs.8,000/- for both put together. Challenging the same, the present appeal has been filed.

2.Learned counsel appearing for the appellant would submit that the appellant is not a man of means. He further submits that the appellant is not in a position to make payment and therefore, the order of the Court below requires interference.

3.The fact that the first respondent is the wife and the second respondent/child is born out of wedlock is not in dispute. Though the first respondent has claimed higher amount, less than 50% alone has been granted by the Court below. The abovesaid amount has been fixed taking into consideration the income and financial status of both parties. In fact, litigation expenses was also declined.

4.In such view of the mater, we do not find any error in the order of the Court below, warranting interference. Accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

5.Taking into consideration the pendency of the case in H.M.O.P.No.101 of 2015 for nearly four years, the Subordinate Court, Ponneri is directed to dispose of the same within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mmi

To

The Subordinate Judge,  
Ponneri.

+2 ccs to Mr.R.Arun Kumar, Advocate, S.R.No.36641 (23/04/2019)

C.M.A.No.1798 of 2019

VG-II (CO)

SSM(10/04/2019).

SSM(23/04/2019).

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