

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.2984 and 3508 of 2019

C.M.A.No.2984 of 2019 :-

ANTONY PETER LEO

REP. BY HIS POWER OF ATTORNEY AGENT

A.MARIASINGAM ALIAS BHARATHKUMAR

(Cause Title Accepted vide order of this

Court dated 06/06/2019 and made in

CMP.No.11070 & 11073 of 2019 in

CMA.Sr.No.34986/19)

... appellant

Vs

ANNES

... respondent

C.M.A.No.3508 of 2019 :-

ANNES

... appellant

Vs

ANTONY PETER LEO

REP. BY HIS POWER OF ATTORNEY AGENT A.

MARIASINGAM ALIAS BHARATHKUMAR

... respondent

PRAYER: Civil Miscellaneous Appeals filed aggrieved at the Judgment and Decreetal order dated 27.12.2018 in IA No.5495 of 2018 in OP No.2451 of 2018 passed by the Learned V Additional Principal Judge Family Court Chennai.

Appearance :-

Thiru.Venkataramana, V.M., for the appellant in

C.M.A.No.2984/2019 and respondent in C.M.A.No.3508 of 2019

Thiru.Manoj Sreevalsan, for the appellant in C.M.A.No.3508/2019

and respondent in C.M.A.No.2984 of 2019

COMMON JUDGMENT

(made by K.K.SASIDHARAN, J.)

The Civil Miscellaneous Appeals are directed against the order dated 27 December 2018 in I.A.No.5495 of 2018 in O.P.No.2451/2018 directing the appellant in C.M.A.No.2984 of 2019 to pay interim maintenance at the rate of Rs.20,000/- per month, pending disposal of the original petition in

O.P.No.2451/2018. Feeling aggrieved by the quantum awarded by the trial court, the respondent in I.A.No.5495 of 2018 filed C.M.A.No.2984/2019. Similarly, aggrieved by the quantum fixed towards interim maintenance, the wife, who was the petitioner in I.A.No.5495 of 2018, filed C.M.A.No.3508/2019, seeking enhancement of the maintenance.

2. The matrimonial proceedings in O.P.No.2451/2018 was initiated by the husband, who is the appellant in C.M.A.No.2984 of 2019 for a decree dissolving the marriage solemnized on 19 April 2009.

3. The original petition was opposed by the wife by filing counter affidavit. The wife filed an interlocutory application in I.A.No.5495 of 2018, claiming interim maintenance at the rate of Rs.45,000/- per month, besides a sum of Rs.5,000/- being the litigation expenses.

4. The learned V Additional Family Court Judge on a consideration of the income earned by the husband and the financial condition of the wife, awarded a sum of Rs.20,000/- as interim maintenance. Since the claim made by the wife for a sum of Rs.45,000/- as interim maintenance was not granted, she filed an appeal in C.M.A.No.3508/2019. The husband is also aggrieved by the amount fixed by the Trial Court by way of maintenance. He has therefore filed appeal in C.M.A.No.2984 of 2019.

5. We have heard the learned counsel for the respective parties.

6. The only question that arises for consideration is as to whether the Trial Court was justified in fixing the interim maintenance at the rate of Rs.20,000/- p.m.

7. It is the admitted case of the parties that the wife is not employed. The husband, on the other hand, is beneficially employed in the United States of America.

8. The wife is suffering from Motor Sensory Axonal Neuropathy. She is taking continuous treatment. This fact is not denied by the husband either before the Trial Court or before this Court.

9. Before the Trial Court, Ex.R-1 to R-3 were marked to show the income of the husband. He was earning a substantial sum as monthly salary.

10. The wife has to maintain herself and also to bear the expenses in connection with her treatment. In fact, she appeared before this Court earlier in a wheelchair. The Tribunal, without

any regard to the monthly income of the husband and the pitiable condition of the wife, fixed the maintenance at the rate of Rs.20,000/- p.m. Even though the wife was employed earlier, the fact remains that she resigned the job and the same is evident from the document in Ex.P-11. We are therefore of the view that the Trial Court was not correct in fixing the maintenance at the rate of Rs.20,000/- p.m.

11. We have perused the entire documents including the Bank statements. We are convinced that the wife is justified in making a claim for enhancement.

12. We direct the husband, who is the respondent in C.M.A.No.3508 of 2019, to pay maintenance at the rate of Rs.40,000/- per month to the appellant with effect from 11 October 2018. The husband is given four week's time to pay the arrears.

13. The Civil Miscellaneous Appeal in C.M.A.No.3508 of 2019 is allowed. The connected appeal in C.M.A.No.2984 of 2019 is dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

-s/d-

Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

tar  
To  
The V Additional Principal Judge  
Family Court Chennai

C.M.A.Nos.2984 & 3508/2019

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