

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2019

CORAM:

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

C.M.A.No.1772 of 2018

Saravanan ... Appellant/Respondent/Petitioner
Vs

Parameswari ... Respondent/Petitioner/Respondent

PRAYER: Civil Miscellaneous Appeal filed against the fair and decretal order of VII Additional Family Judge, Chennai, in I.A.No.1969 of 2016 in O.P.No.1244 of 2015 dated 18.04.2018.

For appellant : Mr.S.Madhusudanan

For respondents : Mr.K.Kannan

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The interim order, directing the appellant to pay maintenance at Rs.10,000/- p.m. to the respondent and her two children is under challenge at the instance of the respondent in I.A.No.1969 of 2016 in O.P.No.1244 of 2015.

2. The appellant filed O.P.No.1244 of 2015 for dissolution of marriage solemnized on 17 June 2005.

3. The respondent filed I.A.No.1969 of 2016 claiming interim maintenance. The Trial Court directed the appellant to pay maintenance at Rs.10,000/- p.m. Feeling aggrieved by the quantum fixed by the Trial Court, the appellant has filed this Civil Miscellaneous Appeal.

4. We have heard the learned counsel for the appellant. We have also heard the learned counsel for the respondent.

5. The proceedings in O.P.No.1244 of 2015 initiated by the appellant for divorce is pending before the VII Additional Family Court, Chennai. The respondent without filing counter affidavit in O.P.No.1244 of 2015, filed I.A.No.1969 of 2016.

The application was opposed by the appellant on the ground that the respondent is residing in her own house and there are family members to support her. The appellant contended that he was earning only a sum of Rs.6,500/- per month and as such, it would not be possible to provide maintenance as demanded by the respondent.

6. The Trial Court on an analysis of the entire factual matrix, awarded a sum of Rs.10,000/- towards maintenance and a sum of Rs.5,000/- by way of litigation expenses.

7. There is no dispute that the Trial Court exercised its discretion on the basis of the materials available on record. The Trial Court was justified in directing the appellant to pay maintenance to the respondent and her two minor children, taking into account his means.

8. We are constrained to interfere in the quantum fixed by the Trial Court only on account of the subsequent events. We are informed that the appellant is obliged to maintain his mother, widowed sister and her children, out of the income received by him as a last grade servant of the Public Works Department.

9. We modify the decree dated 18 April 2018 by directing the appellant to pay maintenance at the rate of Rs.10,000 p.m. from 18 July 2016 to 30 August 2019. The differential amount shall be paid within a period of three months. The appellant shall pay 50% of the differential amount and the arrears within a period of one month from today. The remaining arrears shall be paid in two equal instalments. The entire amount should be cleared within a period of three months from today. The appellant shall also pay maintenance to the respondent and two minor children at the rate of Rs.9,000/- p.m. The modification in reduction of maintenance amount would come into effect from the month of September 2019. The Decree dated 18 April 2018 in I.A.No.1969 of 2016 is modified to the above extent.

10. The Civil Miscellaneous Appeal is allowed in part. Consequently, C.M.P.No.13699 of 2018 is closed.

-s/d-

Assistant Registrar(CCC)

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Sub-Assistant Registrar

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To

1.The VII Additional Family Judge, Chennai

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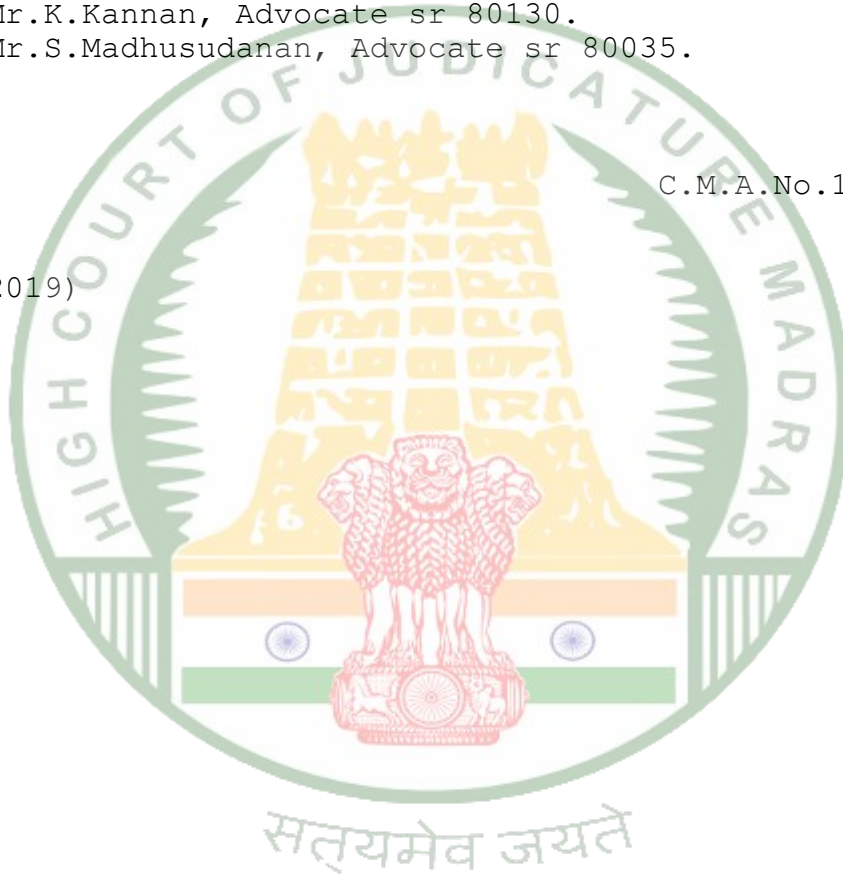
The Section Officer
VR Section
High Court, Madras 104

+1 CC to Mr.K.Kannan, Advocate sr 80130.

+1 CC to Mr.S.Madhusudanan, Advocate sr 80035.

C.M.A.No.1772 of 2018

RSV(CO)
SP(31/10/2019)



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