

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
C.M.A.No.578 OF 2018

DR.N.KRIBAHARAN

...

appellant

Vs

NANDHINI

...

respondent

PRAYER: Civil Miscellaneous Appeal filed to set aside the fair and final order passed in IA.No.165 of 2017 in HMOP.No.1120 of 2016 on the file of the Additional Principal Family Judge Coimbatore dated 02/01/2018.

For appellant : Mr.B.Gopalakrishnan
for Mr.S.Gunalan

For respondent: Mr.L.Mouli

J U D G M E N T

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

The appellant who is stated to be a reputed Orthopedic surgeon and owner of Jayam Ortho and Multi Speciality Hospital at Mallur, Salem District, initiated matrimonial proceedings in H.M.O.P.No.1120 of 2015 against the respondent praying for a decree of divorce. The respondent on her part, filed a petition for judicial separation in H.M.O.P.No.508 of 2015.

2. The respondent filed I.A.No.165/2017 in H.M.O.P.No.1120 of 2015 for interim maintenance at the rate of Rs.5,00,000/- per month for herself and the minor child. The petition was opposed by the appellant by filing counter affidavit.

3. The Trial Court on a careful consideration of the monthly income of the appellant and the financial condition of the respondent, and her difficulty to maintain the minor child, directed the appellant to pay interim maintenance at the rate of Rs.60,000/- p.m. The order dated 2 January 2018 is under challenge at the instance of the respondent in I.A.No.165 of 2017.

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

5. The marriage of the appellant with the respondent was solemnized on 4 June 2010. In the said lawful wedlock, a male child was born on 20 March 2011. The matrimonial proceedings in H.M.O.P.No.508 of 2015 was initiated by the respondent at the first instance for judicial separation. It was only thereafter, the appellant filed an original petition in H.M.O.P.No.1120 of 2015 for divorce.

6. The respondent is stated to be unemployed. She has to maintain the minor child. The appellant is residing separately. The appellant is a reputed orthopedic surgeon and he is also the owner of a multi-specialty hospital with 90 beds at Mallur, Salem District. There are about 30 Doctors working in the said hospital. The appellant is in an affluent position. He is the owner of several high-end cars. The documents relating to those cars were also produced by the respondent before the trial Court. The documents available on record clearly prove the income of the appellant. The respondent demonstrated before the trial Court that she was not having any means to maintain family. The trial Court on a careful consideration of the entire factual matrix, fixed the monthly maintenance at the rate of Rs.60,000/- p.m.

7. We have perused the entire documents available on record. We have also perused the pleadings on record. We are convinced that the trial Court was correct in fixing the monthly maintenance at the rate of Rs.60,000/- p.m. The respondent should also live a decent life commensurate to her status as the wife of a reputed orthopedic surgeon. It is not as if the appellant is not in a position to pay a sum of Rs.60,000/- towards maintenance. The appellant is owning a full fledged hospital where there are 30 doctors working under him. All this would clearly indicate that the appellant is in a position to pay the maintenance. We are therefore of the view that the trial Court was right in fixing the monthly maintenance at the rate of Rs.60,000/-. We do not find any reason to take a different view in the said matter.

8. The order passed by the Additional Family Court, Coimbatore, is confirmed. We direct the appellant to pay the entire arrears of maintenance within a total period of six weeks from today. He should pay 50% of the arrears within four weeks and the remaining, within a period of two weeks thereafter. The appellant should continue to pay the monthly maintenance in addition to the arrears, as per the direction given by the trial Court.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, C.M.P.No.5091 of 2018 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

tar

To

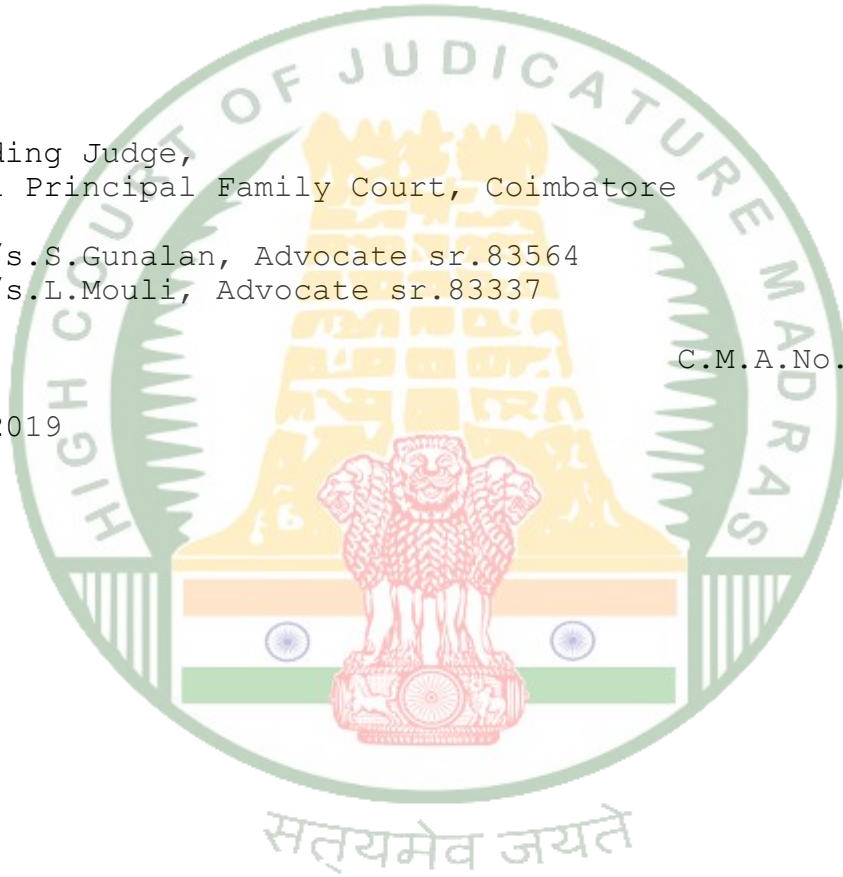
The Presiding Judge,
Additional Principal Family Court, Coimbatore

+1cc to M/s.S.Gunalan, Advocate sr.83564

+1cc to M/s.L.Mouli, Advocate sr.83337

C.M.A.No.578 OF 2018

nr 01/11/2019



WEB COPY