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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A. No. 4116 of 2018

S.Komala Kumari ... Appellant/Petitioner/Respondent
Vs.

G.Sridhar ... Respondent/Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984, praying to set aside the fair and final order dated 23.10.2018 passed in I.A.No.1899 of 2018 in O.P.No.2289 of 2017 on the file of the III Additional Principal Judge, Family Court, Chennai.

For Appellant : Mr.S.Nambi Arooran
For respondent : Mr.B.Thirumalai

JUDGMENT

(Judgment of the Court was made by M.M.Sundresh,J.)

This civil miscellaneous appeal has been preferred by the appellant aggrieved over the order passed in I.A.No.1899 of 2018 in O.P.No.2289 of 2017, by which, the Court below declined to pay her any interim maintenance pending O.P.No.2289 of 2017 filed by the respondent for divorce.

2. The learned counsel appearing for the appellant would submit that without assigning any specific reason, the III Additional Principal Judge, Family Court, Chennai, has declined interim maintenance though agreeable for some amount towards the litigation expenses. The respondent is admittedly earning more than Rs.80,000/- per month being an Engineer in the Corporation of Chennai.

3. The learned counsel appearing for the respondent would submit that the house standing in the name of the mother was



given to the appellant. The male child is also living with the respondent. The appellant is taking Hindi tuition in the home and also working in Model Matriculation Higher Secondary School, Tondiarpet, Chennai, and earning income.

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4. By way of a reply, the learned counsel appearing for the appellant would submit that the allegations are not true. The flat given to the appellant is under the SARFAESI proceedings. Therefore, appropriate order has to be passed, especially taking into consideration the appellant is having poor eye sight.

5. On a perusal of the order passed by the III Additional Principal Judge, Family Court, Chennai, we find that without any basis, the prayer sought for by the appellant for the interim maintenance has been rejected. One factum is not in dispute that the respondent is working as Engineer in the Corporation of Chennai and the salary received by him. Though the respondent is taking care of the male child and the flat, which originally stood in the name of his mother, was in the custody of the appellant, which is under the SARFAESI proceedings. There is no substantial evidence to show that she has got sufficient means for the maintenance of herself.

6. In such view of the matter, we are inclined to grant Rs.6,000/- per month towards maintenance payable by the respondent to the appellant from the month of November, 2019. Such payment shall be made for the ensuing months on or before 7th of every English Calendar month. If the appellant has got any urgent need for her eye surgery, liberty is given to file appropriate application.

7. At this juncture, the learned counsel for the appellant would submit that some visitation right may be given to see the minor child.

8. The learned counsel for the respondent has no serious objection for the same.

9. Accordingly, the appellant is permitted to visit the child once in a month, preferably, every 3rd Sunday between 3.00p.m., and 6.00p.m., in any place nearer to the house of the respondent. Such place will have to be intimated to the appellant in advance by the respondent. Taking note of the fact that the matter is pending for nearly 2 ½ years, we direct the III Additional Principal Judge, Family Court, Chennai, to dispose of O.P.No.2289 of 2017 within a period of six months from the date of receipt of a copy of this judgment.



10. The above Civil Miscellaneous Appeal is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (C.S.III)

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/True Copy/

Sub Assistant Registrar

To:

The III Additional Principal Judge,
Family Court,
Chennai.

+1 cc to M/s.S.Nambi, Advocate Sr.No. 102145

+1 cc to M/s.B.Thirumalai, Advocate Sr.No. 102283

AKM/05.03.2020/3P-4C /

C.M.A.No.4116 of 2019