

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2019

CORAM:

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

C.M.A. No. 977 of 2018

R.Alamelu @ M. Alamelu ...Appellant/Petitioner/Petitioner

Vs.

Ramkumar ... Respondent/Respondent/Respondent

Prayer: Appeal filed under Section 19 of the Family Courts Act, 1984 against the fair and deccretal order dated 10.03.2018 in I.A.No.1752 of 2012 in O.P. No. 1133 of 2012 on the file of the Principal Judge, Family Court, Chennai.

For Appellant : Ms.K.Santhakumari

For Respondent : No appearance

JUDGMENT

(Delivered by M.M.Sundresh, J.)

This appeal is preferred by the wife seeking enhancement of the interim maintenance ordered by the Court in a petition filed for divorce by the respondent/husband. Despite service of notice and the name having been printed, the respondent has not chosen to appear before the Court. In order to give some opportunity, the matter stood adjourned on last two occasions and even today, there was no representation on behalf of the respondent.

2. The learned counsel appearing for the appellant would submit that the respondent is earning \$8,500 p.m. There is also an admission by him by way of deposition before the Family Court. Though the Family Court has awarded Rs.45,000/- w.e.f 1.4.2018, only a sum of Rs.30,000/- was awarded as interim maintenance from the date of filing the petition i.e., from July, 2012 till March, 2018. While awarding the interim maintenance, the status of the parties will have to be taken into consideration. The appellant is not employed elsewhere. Therefore, the order passed would require interference.

3. We find considerable force in the submission made by the learned counsel appearing on behalf of the appellant. When the Family Court found that the appellant is entitled to a sum of Rs.45,000/- per month, we do not find any reason as to why the Family Court granted Rs.30,000/- per month as interim maintenance from July,2012 to March,2018 and granted interim maintenance at the rate of Rs.45,000/- only from 1.4.2018. We find that a sum of Rs.45,000/- as interim maintenance for the entire period would be very much reasonable.

4. In such view of the matter, the order of the Family Court stands set aside insofar as the granting of Rs.30,000/- from July,2012 to March,2018 as against Rs.45,000/-. Thus, we hold that the appellant is entitled to Rs.45,000/- per month from July,2012 to March,2018.

5. Accordingly, the order of the Family Court stands modified by directing the respondent to pay a sum of Rs.45,000/- per month from July,2012 to March,2018. Insofar as the interim maintenance awarded at Rs.45,000/- per month from 1.4.2018 is concerned, the order passed by the Court below remains unaltered.

In view of the above, the appeal stands allowed to the extent indicated above. No costs. Taking into consideration the fact that O.P.No.1133 of 2012 is pending for more than six years, we direct the Court below to dispose 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

ssm

To:-

The Principal Judge,
Family Court,
Chennai.

+1cc to M/s.K.Santhakumari, Advocate, S.R.No.36238

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KJ(CO)

RRS (17/06/2019)