

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)Nos.2058 OF 2019

R.Shivakumar

... Petitioner

Vs.

J.Ramya

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 28.03.2019 made in I.A.No.769 of 2017 in H.M.O.P.No.713 of 2017 pending on the file of the Sub Court, Tambaram on 28.03.2019.

For Petitioner : Mr.R.Nirmaladevi

For Respondent : Mr.V.M.Venkatramana

ORDER

This Civil Revision Petition is filed by the petitioner seeking to set aside the fair and decreetal order dated 28.03.2019 made in I.A.No.769 of 2017 in H.M.O.P.No.713 of 2017 pending on the file of Sub Court, Tambaram.

2. The learned Sub Judge, Family Court, Tambaram has ordered maintenance to the respondent / wife at Rs.15,000/- per month, in I.A.No.769 of 2017 in H.M.O.P.No.713 of 2017 on 28.03.2019. Aggrieved over the same, the petitioner is before this Court.

3. According to the petitioner his take home salary is only Rs.24,950/- out of which Rs.1,600/- was paid for conveyance. If Rs.15,000 is ordered as monthly maintenance, he will be left with only Rs.8,000/- to Rs.10,000/- for maintaining himself and his old aged parents. Therefore, it is the contention of the petitioner that the maintenance awarded by the lower Court is excessive and it should be modified.

4. The learned counsel appearing on behalf of the respondent / wife would contend that when the wife is depending on her father for her livelihood with meager amount of Rs.15,000/-, she could not maintain herself. Therefore the order passed by the Lower Court is justified.

5. Heard both parties.

6. The petitioner produced the pay slip for the month of February 2019.

The salary details is given under:

EARNINGS	AMOUNT	DEDUCTION	AMOUNT
Basic	15400.00	PF	1800.00
HRA	7700.00	Professional Tax	1250.00

EARNINGS	AMOUNT	DEDUCTION	AMOUNT
Conveyance	1600.00		
Medical Allowance	1250.00		
Special Allowance	2050.00		
(A) Total Earning	28000.00	(B) Total Deductions	3050.00
Remarks:			
Net Salary = (A) + (B)			24950.00

The petitioner's Basic pay is only Rs.15,400/- and Rs.7700/- is his house rental allowance literally he will be carrying around Rs.24,000/- as salary .

6. Considering the income of the petitioner husband, this Court is of the considered opinion that monthly maintenance can be fixed at Rs.10,000/- than Rs.15,000/- as awarded by the Trial Court. The order passed by the trial Court in the I.A. is modified to the extent indicated above. Accordingly, the order dated 28.03.2019 passed by the Trial Court in I.A.No.769 of 2017 in H.M.O.P.No.713 of 2017 is modified to the extent indicated above. The petitioner is directed to pay a sum of Rs.10,000/- per month, towards maintenance to the respondent wife and her children. The Trial Court has also directed the petitioner husband to pay a sum of Rs.10,000/- towards litigation expenses which should also be paid by him within a period of one month from the date of receipt of a copy of this order and he shall continue to pay monthly maintenance on or before 10th of every succeeding month without waiting for any orders from the Court.

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8. The Civil Revision Petition is disposed of with the above observation and direction. No costs.

02.07.2019

Index: Yes / No

Speaking order / Non speaking order.

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To

The Sub Court, Tambaram.



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