

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.2536, 2537 of 2019

E.Alice Juliana

... appellant/ Petitioner / Respondent
(in both appeals)

Vs

E.T.B.Samuel Jigme Harrison

... respondent / Respondent / Petitioner
(in both appeals)

PRAYER: Civil Miscellaneous Appeal filed to set aside the common order and decree dated 3.5.2019 in I.A.Nos.488 and 487 of 2018 in IDOP 3 of 2017 by the Family Court, Salem.

For appellant : Ms.A.Arulmozhi

For respondents : Ms.Sheila Jayaprakash

COMMON JUDGMENT

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

These appeals are directed against the order dated 3 May 2017 in I.A.Nos.487 and 488 of 2018 in I.D.O.P.No.3/2017 on the file of the Family Court, Salem, directing the respondent to pay maintenance to the appellant and the minor child.

2. The respondent initiated proceedings in O.P.No.2196 of 2016 before the Family Court, Chennai praying for dissolution of marriage. The original petition was transferred to the Family Court, Salem, pursuant to the order in Tr.C.M.P.No.574 of 2016. Before the Trial Court, the appellant filed interlocutory application in I.A.Nos.487 and 488 of 2018, directing the respondent to pay maintenance. The appellant claimed Rs.2,50,000/- as maintenance to her and a sum of Rs.50,000/- to the child, besides medical expenses.

3. The Family Court Salem by order dated 3 May 2019, directed the respondent to pay a sum of Rs.10,000/- p.m. to

the minor petitioner and a sum of Rs.15,000/- to the appellant. Feeling aggrieved by the quantum of maintenance awarded by the Trial Court, the appellant has filed appeals in C.M.A.Nos.2536, 2537 of 2019.

4. The appeals came up for hearing before us on 12 September 2017. Taking into account the financial condition of the respondent and the medical expenses incurred for the treatment of the minor child, we directed the parties to settle the issue relating to maintenance. When a suggestion was made to the learned counsel for the appellant as to whether a sum of Rs.40,000/- as maintenance would suffice, it was submitted that the appellant is agreeable for the said amount. The respondent also agreed to pay the amount suggested by the Court. Therefore, we directed the respondent to file a memo undertaking to pay maintenance at the rate of Rs.40,000/- p.m.

5. The appellant in the meantime, filed I.D.O.P.No.476 of 2019 for restitution of conjugal rights. The learned counsel for the respondent submitted that appropriate direction should be issued to the Trial Court to take up both the proceedings together. The learned counsel further submitted that the petition in I.D.O.P.No.3/2017 would be treated as counter in I.D.O.P.No.476 of 2019. The said undertaking is recorded.

6. The respondent through his power agent filed a memo undertaking to pay a sum of Rs.40,000/- as maintenance to the appellant and her minor child. The memorandum reads thus:-

1) The respondent agrees to pay the appellant a sum of Rs.25,000/- a month as interim maintenance and the minor child Jane Gabriella a sum of Rs.15,000/- a month as interim maintenance in all Rs.40,000/- in I.A.No.487/2018 and I.A.No.488/2018 respectively, on the file of the Family Court at Salem;

2) The respondent further agrees to pay the Christian Medical College Hospital (CMC) Vellore, the medical treatment charges for the minor child as well as any other medical treatment charges in any other hospital where treatment is taken on the directions of CMC, Vellore;

3) The appellant has now filed I.D.O.P.476/2019 on the file of the

Family Court at Salem for institution of conjugal rights which stands posted on 30.10.2019. The respondent prays that this petition be advanced and heard along with I.D.O.P.3 2017;

4) The respondent prays that the time frame set and extended for the completion of I.D.O.P.3/2017 by this Hon'ble Court on 22.4.2019 in C.R.P.3274 of 2018 be complied with;

5) The respondent prays that the DNA Test that the respondent underwent on 27.7.2019 on an order passed by this Hon'ble Court on 26.7.2019, the results of which have been sent to this Hon'ble Court, be sent to the Family Court at Salem as part of the records in I.D.O.P.3/ 2017 on the file of the said court.

7. We direct the respondent to pay maintenance at the rate of Rs.40,000/- p.m. to the appellant and the child with effect from 1 November 2018. The differential amount shall be paid within a period of four weeks from today. The respondent shall pay the monthly maintenance as indicated in the memo on the first day of the succeeding month.

8. We direct the Family Court, Salem to take up the original petition in I.D.O.P.No.3/2017 along with I.D.O.P.No.476 of 2019 and decide it on merits and as per law.

9. The Civil Miscellaneous Appeals are disposed of with the above direction. No costs. Consequently, C.M.P.No.12063 of 2019 is closed.

Sd/-

Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

tar

To

The Family Court, Salem.

+2ccs to M/s.Arul Mozhi , Advocate SR.No. 7954 79576

+2ccs to Mr.Sheik Jayaprakash , Advocate SR.No. 79589&79590

C.M.A.Nos.2536, 2537 of 2019

A.SK(21/10/2019)