IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.12.2019

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

C.M.A.No.2761 of 2019
and
C.M.P.No.14075 of 2019

M.A.Praseeth .. Appellant/Respondent

vs.

1.T.S.Anjali
2.Master Sathvik
rep. By her mother and natural
guardian T.S.Anjali .. Respondents/Petitioners

Appeal filed under Section 19 of the Family Courts Act against the fair and decretal order dated 28.05.2019 passed in I.A.No.1 of 2019 in O.P.No.266 of 2017 by the IV Additional Principal Judge, Family Court, Chennai.

For Appellant : Mr.S.S.Swaminathan

For Respondents: Mr.Suganthan
for M/s.Nathan and Associates

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

Appellant is the husband of the first respondent and the second respondent is the child born out of the wedlock between the appellant and the first respondent. The respondents filed O.P.No.266 of 2017 seeking a decree for divorce. Pending the abovesaid petition, interim maintenance has been sought for. Accordingly, the respondents sought for Rs.93,000/- for school fees, Rs.20,000/- for extracurricular activities and Rs.15,000/- towards medical expenses for the second respondent herein and

Rs.20,000/- per month for maintenance towards the first respondent herein. The IV Additional Principal Judge, Family Court, Chennai was pleased to grant a sum of Rs.10,000/- each towards interim maintenance for both the respondents along with annual school fee of Rs.93,000/-, Rs.20,000/- for extra curricular activities and a sum of Rs.5,000/- towards medical expenses for the second respondent has been ordered. However, the amounts are directed to be paid from 18.03.2019 onwards. Challenging the same, the present appeal has been filed.

2.Learned counsel appearing for the appellant submitted that the income tax returns would show that the income of the appellant is about Rs.2,34,890/- for the assessment year 2014-2015. This aspect has not been taken into consideration by the Family Court. Therefore, the order requires interference.

3.Learned counsel appearing for the respondents submitted that admittedly the appellant is running a business in the name and style of Map Innovative Technologies at Kerala. The averment made with respect to earning capacity and the factum of running the aforesaid concern have not been denied by the appellant in the counter affidavit, which has also been taken note of by the Family Court. Though the respondents sought for higher amount, the Family Court ordered very meagre amount. Thus, the appeal will have to be dismissed.

4.We do not find any merit in this appeal. The amount mentioned in the income tax return is after taking note of the admissible expenditure including the salaries. Thus the contention made by the learned counsel for the appellant cannot be countenanced. Further more, the appellant is admittedly an income tax assessee. What has been ordered by the Family Court is only Rs.10,000/- each to both respondents. The amount of Rs.93,000/- per annum for tuition fee is not in dispute. Incidentally, a sum of Rs.5,000/- alone has been ordered towards medical expenses apart from Rs.20,000/- for extracurricular activities. This, we feel, is very reasonable, especially when the Family Court has passed an order with effect from 18.03.2019 onwards. In such view of the matter, we do not find any reason warranting interference with the order of the Family Court. Accordingly, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

5.Taking into consideration the fact that O.P.No.266 of 2017 is pending from the year 2017 onwards, we direct the IV Additional Principal Judge, Family Court, Chennai, to dispose of the same within a period of four months from the date of receipt of a copy of this judgment.

Sd/-
Assistant Registrar(CS-)

// True Copy//

Sub Assistant Registrar

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To

The IV Additional Family Court, Chennai.

+ 1 to Mr. S.S. Swaminathan, Advocate Sr.106511

C.M.A.No.2761 of 2019

PA(CO)
EU 9.7.2020