

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2019

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (PD)No.4289 of 2014

and

M.P. No.1 of 2014

A. Saravanan ... Petitioner

Vs

P. Samayaparvathi ... Respondent

Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the docketal order dated 8.4.2014 passed by the II Additional Family Court, Chennai in H.M.O.P. No.3430 of 2009.

For Petitioner : Mr.P.K.Ganesh

For Respondent : Ms.B. Saranya

ORDER

The instant Civil Revision Petition has been filed challenging the docket order dated 8.4.2014 passed by the learned II Additional Family Judge, Chennai in H.M.O.P. No.3430 of 2009.

Brief facts leading to the filing of the instant Civil Revision Petition filed under Article 227 of the Constitution of India.

2. The petitioner filed H.M.O.P. No.3430 of 2009, which is now pending on the file of the II Additional Family Court, Chennai, seeking restitution of conjugal rights against the respondent, who is his wife. In the said H.M.O.P., a counter claim was filed by the respondent-wife against the petitioner-husband in I.A. No.1485 of 2012 seeking for divorce and permanent alimony. Pending the counter claim, the respondent had also sought for interim maintenance from her husband-petitioner in I.A. No.356 of 2011 in H.M.O.P. No.3430 of 2009.

3. By order dated 20.01.2012, the learned II Additional Family Judge, Chennai directed the petitioner to pay a sum of Rs.3,000/- p.m. towards interim maintenance to the respondent and also directed the petitioner to pay Rs.5,000/- as litigation expenses. Despite the said order, the petitioner, did not comply with the same and the respondent filed a memo before the II Additional Family Court on 14.03.2014 stating that the arrears of maintenance has not been paid by the petitioner to the respondent. By order dated 14.03.2014, after recording the memo filed by the respondent, the II Additional Family

Court, Chennai directed the petitioner to pay the arrears of maintenance amounting to Rs.1,16,000 (Rs.1,11,000/- + Rs.5,000) to the respondent. Thereafter, the learned II Additional Family Judge by a docket order, dated 08.04.2014 directed the petitioner to pay the respondent not less than a sum of Rs.25,000/- towards arrears of interim maintenance, payable by the petitioner to the respondent, in compliance with the earlier order dated 20.01.2012 passed by this Court.

4. Aggrieved by the aforesaid direction given by the II Additional Family Court, Chennai by its docket order dated 8.4.2014, directing the petitioner to pay a sum of Rs.25,000/- to the respondent as arrears of maintenance, the instant Civil Revision Petition has been filed under Article 227 of the Constitution of India.

5. Heard Mr.P.K. Ganesh, learned counsel for the petitioner and Ms.B. Saranya, learned counsel for the respondent.

6. At the outset, this Court put a question to the learned counsel for the petitioner as to whether any maintenance amount has been paid by the petitioner-husband to the respondent-wife, for which,

the learned counsel for the petitioner fairly admitted that till date no maintenance amount has been paid by the petitioner to the respondent. However, he submits that there is a possibility of settlement and hence he requested this Court to refer the matter to the Mediation Centre. Today, the case is listed under the caption "for dismissal", due to the non appearance of the petitioner or his counsel in previous two hearing dates. This matter has been listed before this Court on several occasions earlier and, for the first time, a submission has been made by the learned counsel for the petitioner that there is a possibility of settlement.

7. Considering the repeated adjournments granted, this Court is of the considered view that no useful purpose will be served, if the matter is referred to the Mediation, since, it is an admitted fact that no interim maintenance amount has been paid by the petitioner-husband to the respondent-wife, who is also having the custody of a child, and admittedly till date, the child is maintained only by the respondent. Any resort to mediation at this stage will further aggravate the agony of the wife as the petitioner-husband does not seem to have inclination to pay any maintenance amount to the respondent-wife.

8. Considering all these factors, this Court is of the considered view that there is no merit in this revision. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

9. In view of the long pendency of the H.M.O.P. No.3430 of 2009, the learned II Additional Family Judge, Chennai is directed to dispose of the same, within a period of six months from the date of receipt of a copy of this order.

20.08.2019

Index: Yes/ No
Internet: Yes/No
Speaking Order/Non-speaking Order
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To
The II Additional Family Judge,
Chennai.

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ABDUL QUDDHOSE, J.



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