

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.3206 of 2019
and
C.M.P.No.18272 of 2019

J.Soundarajan ... Appellant/Petitioner/Respondent

Vs

S.Santhiya ..Respondent/Petitioner/Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 19 of the Family Court Act against the fair and decreetal order passed by the learned IV Additional Family Court, Chennai in I.A.No.96 of 2018 in O.P.No.2369 of 2018 dated 25.07.2019.

For Appellant : Mr.S.Parthasarathy

For Respondent : Mr.M.Prabhu

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by the appellant/husband against the award of interim maintenance of Rs.17,500/- to the respondent and child payable by the appellant every month.

2.The appellant and the respondent got married on 05.06.2011 and out of the wedlock, a child was born. Subsequently, disputes arose between the parties and thereafter, they have been living separately. A petition in H.M.O.P.No.9 of 2013 was filed by the appellant for divorce and subsequently, the matter was settled in the year 2015.

3. Even after living jointly, disputes arose between the parties and the parties are living separately for the past one year which compelled the appellant to file a petition in H.M.O.P.No.2369 of 2018 before the Family Court, Chennai. In the said petition, an application has been filed by the respondent seeking maintenance of a sum of Rs.25,000/- to her

and Rs.15,000/- to the child and Rs.25,000/- towards Litigation Expenses. The said application was partly allowed by granting Rs.17,500/- towards interim maintenance and Rs.25,000/- towards Litigation Expenses. The said order is being challenged before this Court.

4.Mr.S.Parthasarathy, learned Counsel for the appellant would submit that the respondent is employed as a teacher and earning more than Rs.15,000/- per month. The appellant has got three business ventures which are all running in loss and his annual come is only Rs.3,22,436/- and produced Ex.R.1 and other documents Ex.R.2 and Ex.R.3.

5.However, the learned Counsel for the respondent would submit that even after reunion in the year 2015, the appellant did not look after the respondent and has not paid any amount even for the monthly rent payable for the tenanted premises. Therefore, left with no other option, the respondent is living along with her parents.

6.A perusal of the records would reveal that the appellant has admitted before the Family Court that he is running three companies viz., Great Sai Engineering Service at Minjur and in Chennai and also running his own concern in the name of Great Sai Facility Management at Saidapet. It is the case of the respondent that the appellant is earning a sum of Rs.3,00,000/- to Rs.5,00,000/- per month.

7.Taking into consideration of Ex.R.1 viz., I.T.return showing Rs.3,22,436/- as annual income and Ex.R.2 viz., I.T.return in respect of year 2018 - 2019 showing Rs.2,75,395/- as annual income, the Trial Court fixed the monthly income of the appellant as not less than Rs.50,000/- per month. The said determination cannot be found fault with. Out of the said amount, Rs.17,500/- has been awarded as interim maintenance. It is seen that the Trial Court has also taken into consideration of the earning of about Rs.15,000/- per month by the respondent which is not sufficient.

8.Therefore, Rs.7,500/- awarded to the respondent and Rs.10,000/- awarded to the child totalling a sum of Rs.17,500/- towards interim maintenance cannot be found fault with. Further, Rs.25,000/- awarded towards Litigation Expenses is also confirmed. Hence, the appellant is directed to pay the arrears of maintenance and the amount towards Litigation Expenses within a period of eight weeks from the date of receipt of the copy of this order.

9.In the result, the appeal fails and the same is dismissed. No costs. Consequently, connected miscellaneous

petition is also closed.

10.Post the matter for reporting compliance on
23.10.2019.

Sd/-

Assistant Registrar (Insp.cell)

//True Copy//

Sub Assistant Registrar

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To

The IV Additional Family Court,
Chennai.

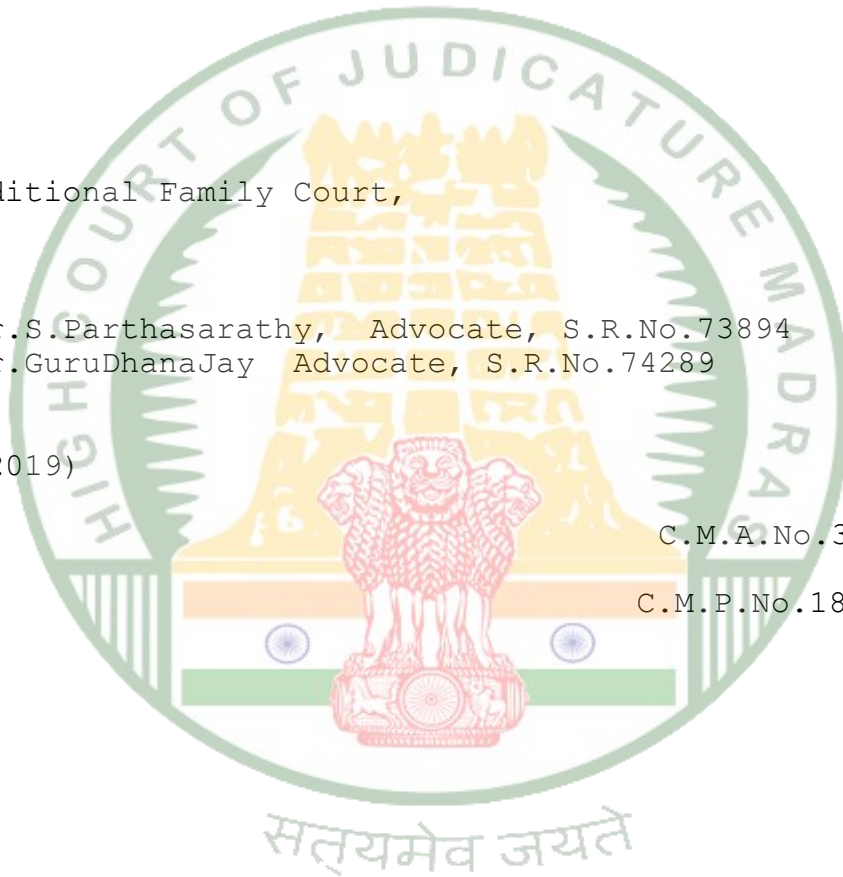
+1cc to Mr.S.Parthasarathy, Advocate, S.R.No.73894

+1cc to Mr.GuruDhanaJay Advocate, S.R.No.74289

RSV(CO)
CB(18/09/2019)

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