

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1510 of 2017
and
C.M.P.No.8105 of 2017

Anandaraman ... Appellant/Respondent

vs.

Muthulakshmi ... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act, against the order passed by the Family Court, Pondicherry in I.A.No.135 of 2011 in MOP No.191 of 2010 dated 22.03.2011.

For Appellant : Mr.M.Devaraj

For Respondent : Mr.D.Ravichander

JUDGMENT

[Judgment of the Court was made by K.K.SASIDHARAN, J.]

This Civil Miscellaneous Appeal is directed against the order dated 22.03.2011 in I.A.No.135 of 2011 in M.O.P.No.191 of 2010 on the file of the Family Court, Pondicherry, directing the appellant to pay the maintenance at the rate of Rs.3,000/- per month and in the event of failure to produce the pay particulars, to pay at the rate of Rs.5,000/-.

2. The matrimonial proceedings in M.O.P.No.191 of 2010 was initiated by the appellant herein against the respondent praying for a decree of dissolution of marriage on the ground of cruelty. In the said original proceedings, the respondent filed an interlocutory application in I.A.No.135 of 2011 claiming interim maintenance at the rate of Rs.6,000/- per month. The

respondent also claimed a sum of Rs.10,000/- towards litigation expenses.

3. The trial Court, initially, directed the appellant to produce the income particulars so as to fix the interim maintenance. Since no such details were furnished, the trial Court fixed the interim maintenance at the rate of Rs.3,000/- per month. The trial Court issued a further direction to the appellant to produce his pay particulars before the Court within 30 days failing which, it was indicated that the maintenance amount would be enhanced to Rs.5,000/-. It is the said condition, which is essentially challenged by the appellant.

4. We have heard the learned counsel for the appellant. We have also heard the learned counsel for the respondent.

5. The respondent in her application in I.A.No.135 of 2011 contended that the appellant is beneficially employed and as such, he has to pay maintenance to her. The claim was to pay maintenance at the rate of Rs.6,000/- per month. The appellant is engaged as a collecting agent for a private bank. Admittedly, the income particulars were not furnished by the appellant. The trial Court, therefore, while fixing the interim maintenance at the rate of Rs.3,000/- per month directed that in case the income details were not furnished within the 30 days, he should pay the amount of Rs.5,000/- per month. We are of the view that after disposal of the application in I.A.No.135 of 2011 fixing the interim maintenance at the rate of Rs.3,000/- per month, the Court has no jurisdiction to vary it, unless there is an application filed by the wife submitted subsequently for enhancement. In case, the trial Court is of the view that reasonable time should be given to the appellant to produce the income particulars, the matter should have been adjourned by 30 days, and thereafter, the order could have been passed. The short cut method of disposal of interim application with direction to pay maintenance and enhancing the same if the income details were not furnished within 30 days would not stand judicial scrutiny. We therefore, set aside the direction to pay maintenance at the rate of Rs.5,000/-.

6. The other question is as to whether we should be justified in directing the appellant to pay interim maintenance at the rate of Rs.3,000/- per month.

7. The order in question was passed on 22.03.2001. The original proceedings is still pending before the trial Court.

8. After hearing the learned counsel for the respective parties we are of the view that the interest of justice would be subserved by directing the appellant to pay interim maintenance at the rate of Rs.4,000/- per month effective October 2019. The entire arrears at the rate of Rs.3,000/- per month up to and inclusive of 30.09.2019 should be discharged within a period of eight weeks from today.

9. The original proceedings is of the year 2010. We therefore, direct the Family Court, Puducherry to dispose of the matrimonial proceedings in M.O.P.No.191 of 2010 as expeditiously as possible and in any case, on or before 31.03.2020.

10. The Civil Miscellaneous Appeal is allowed in part. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

vsm

To

The Judge,
Family Court, Pondicherry

+1cc to Mr.M.Devaraj Advocate sr86770

+1cc to Mr.D.Ravichander Advocate sr86808

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