

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2019

CORAM:

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

C.M.A.No.3483 of 2017

V.G.Narayanan ... Appellant/Petitioner

Vs

N.Dharani ... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed against the judgment and decree dated 8.11.2017 in I.A.No.1879 of 2015 in O.P.No.564 of 2015 on the file of V Additional Family Court, Chennai.

For appellant : Mr.V.G.Narayanan, party-in-person

For respondents : Ms.V.S.Usharani

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

The order, fixing monthly maintenance to the respondent pending disposal of the original petition in O.P.No.564 of 2015 on the file of the V Additional family Court, Chennai is under challenge in this civil miscellaneous appeal.

2. We have heard the appellant who appeared as party in person. We have also heard the learned counsel for the respondent. 3. The matrimonial proceeding in O.P.No.564 of 2015 was initiated by the appellant, praying for a decree of dissolution of marriage, which was solemnized on 1 September 2008 at Thiruvavoor. The appellant married the respondent in accordance with the custom prevalent among the Hindus. In the said wedlock, two children were born. Since the relationship was not cordial, the appellant initiated proceedings for divorce. The respondent opposed the original petition by filing counter affidavit.

4. Before the Family Court, the respondent filed an application in I.A.No.1879 of 2015, claiming interim maintenance at the rate of Rs.20,000/- p.m. The application was opposed by the appellant primarily on the ground that he is receiving only a sum of Rs.6,500/- per month as wages. The appellant further contended that he has taken LIC policy in the name of his son

and he has to pay the premium. In short, appellant pleaded his inability to pay maintenance.

5. The Family Court taking into account the contentions taken by the appellant in his counter affidavit, that he is working under a contractor in Vodofone, awarded a sum of Rs.10,000/- towards maintenance. It is the said order which is impugned in this Appeal.

6. The respondent is without employment. She has to maintain herself and the minor children. It is not the case of the appellant that he has been maintaining the children. Even according to the appellant, he has taken only one LIC policy in the name of his minor son. There is absolutely no evidence to show that any attempt was made by the appellant at any point of time to pay either maintenance or at least to bear the educational expenses of the minor children.

7. Even according to the appellant, he is employed in Vodofone. The appellant contended that he has been receiving a sum of Rs.6,500/- p.m. The certificate showing the income is not produced before this court to substantiate the monthly earnings of the appellant. Even the bank account has not been produced either before the trial Court or before this Court to prove the monthly take home salary of the appellant.

8. The trial Court on the basis of the entire materials available on record, rightly fixed the interim maintenance at the rate of Rs.10,000/- p.m. We do not find any reason to interfere in the order passed by the trial Court.

9. The appeal is dismissed. No costs. Consequently, C.M.P.No.22155 of 2017 is also closed.

10. The appellant is given three months time to pay the entire arrears, less the amount already deposited. He should continue to pay the monthly maintenance at the rate of Rs.10,000/- till the disposal of the original petition in O.P.No.564 of 2015.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

tar

To

The V Additional Family Court Judge,
The V Additional Family Court, Chennai

+1cc to Ms.V.S.Usharani, Advocate SR.No.83527

+2cc to Mr.R.Arunkumar, Advocate SR.No.83516

C.M.A.No.3483 of 2017

MP (CO)

GMV(14/11/2019)