

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2019

Coram

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR. JUSTICE C.SARAVANAN

C.M.A.No.2712 of 2018

A.Priyadarsini .. Appellant

vs.

M.Kumaresh .. Respondent

Appeal filed under Section 19 of the Family Courts Act, 1984 against the fair and decretal order dated 13.03.2018 in I.A.No.147 of 2017 in O.P.No.2552 of 2016 on the file of the III Additional Principal Family Court, Chennai.

For Appellant : Mr.P.Elaya Rajkumar
for M/s.Ramalingam Associates

For Respondent : Mr.S.S.Karthikeyan
for M/s.Jury Brain Law Offices

JUDGMENT

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

This appeal is preferred by the wife seeking enhancement of compensation invoking Section 24 of the Hindu Marriage Act as the Court below awarded only Rs.5,000/- per month.

2.The respondent/husband has filed a petition for divorce. Pending the aforesaid petition filed in O.P.No.2552 of 2016, the appellant filed an application for interim maintenance under Section 24 of the Hindu Marriage Act. The Court below awarded Rs.5,000/- towards interim maintenance.

3.Learned counsel appearing for the appellant submits that the fact that the respondent is employed as Senior Engineer in the Railways is not in dispute. Even the salary drawn by him for about Rs.55,000/- is not specifically denied. Therefore, the amount of Rs.5,000/- will have to be enhanced.

4.Learned counsel appearing for the respondent submitted that the appellant is gainfully employed and she is running a nursery. She is also working as Nurse after completing her studies. Hence the amount fixed is reasonable.

5.Insofar as the submission made that the appellant is working as Nurse is concerned, there is no material to substantiate the same. Therefore, we are not willing to accept the aforesaid submission. Running of nursery in the name of Anand Nursery cannot be a sole factor to deny interim maintenance to the appellant. It is her case that it is being run by her father. The Court below has also taken into consideration the aforesaid fact. We also find that there is no dispute on the employment of the respondent so also the salary received by him. The Court below has awarded only Rs.5,000/-, which in our considered view, is very low. After all, the spouse is entitled to have a life of the same standard in which she was living prior to separation.

6.In such view of the matter, we are inclined to increase the interim maintenance from Rs.5,000/- per month to Rs.10,000/- per month payable from the month of February 2019 and thereafter.

7.Taking into consideration the fact that the petition is pending in O.P.No.2552 of 2016 for more than two years, we direct the III Additional Family Court, Chennai to dispose of the same within a period of six months from the date of receipt of a copy of this order.

8.The Civil Miscellaneous Appeal is allowed to the extent indicated above. No costs.

Sd/-
सत्यमेव जयते

Assistant Registrar (CS-IV)

//True copy//

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Sub Assistant Registrar

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To

The Judge, The III Additional Principal Family Court, Chennai.

+1cc to M/s.Jury Brain Law Office, Advocate SR.No.12719

+2cc to M/s.Ramalingam & Associates, Advocate SR.No.12440

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PA (CO)
GMY (23/04/2019)



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