

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.04.2019

CORAM:

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

C.M.A. No. 2721 of 2018

E.K.S.Senthil Kumar

...Appellant/Respondent/
Respondent

Vs.

N.Umamaheshwari

... Respondent/Petitioner/
Petitioner

Prayer: Appeal filed under Section 19(1) of the Family Courts Act, 1984 against the order and decree dated 01.09.2018 in I.A.No.2627 of 2017 in O.P. No. 976 of 2013 on the file of the IV Additional Principal Judge, Family Court, Chennai.

For Appellant : Mr.Balaji
for M/s.MCGAN Law Firm

For Respondent : Mr.J.Saravanel

JUDGMENT

(Delivered by M.M.Sundresh,J.)

The appellant is the husband. Challenging the interim maintenance ordered by the Court below, the present appeal has been filed.

2. The learned counsel appearing for the appellant submitted that though the appellant was running a proprietary concern, it was subsequently closed to the knowledge of the respondent and, in fact, she herself stated so in the affidavit filed by her. The appellant is not having any regular income as of now. Therefore, the order of the Court below requires interference.

3. The learned counsel appearing for the respondent would submit that even during the pendency of the proceedings filed under Section 24 of the Hindu Marriage Act, the appellant was paying the aforesaid amount of Rs.30,000/- as interim maintenance. This amount was paid de hors the school fees. The

appellant is having sufficient means, whereas the respondent is not employed elsewhere. Therefore, the order of the Court below would require no interference.

4. In the light of the submissions made on either side, we are of the view that a sum of Rs.25,000/- can be fixed without disturbing the amount directed to be paid towards the school fees. The relationship between the parties is not in dispute and so also the factum of two minor children born from the wedlock.

5. It is not the case of the appellant that the respondent is working elsewhere. The appellant was also making some payment earlier, though the respondent herself stated that the proprietary concern was closed. Taking into consideration the facts governing, including the fact that two children will have to be taken care of, we are of the view that a sum of Rs.25,000/- will have to be paid by the appellant as against Rs.30,000/- ordered by the Family Court, while not disturbing the sum of Rs.1,45,000/- towards the tuition fees.

In view of the above, the appeal stands allowed to the extent indicated above. No costs. Consequently, connected C.M.P. No. 20587 of 2018 is closed. Taking into consideration the fact that O.P.Nos.976 of 2013 and 289 of 2015 are pending for more than four years, we direct the Court below to dispose the same within a period of six months from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssm

To:-

IV Additional Principal Judge,
Family Court,
Chennai.

+1cc to Mr.J.Saravana Vel, Advocate, S.R.No.36388
+1cc to M/s.McGan Law Firm, Advocate, S.R.No.37422

C.M.A. No. 2721 of 2018

RJI (CO)

RRS (18/06/2019)