

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.09.2019

CORAM

The Honourable Mr.JUSTICE K.K.SASIDHARAN

and

The Honourable Mr.JUSTICE ABDUL QUDDHOSE

CMA.No.2826 of 2018

and

CMP.No.21592 of 2018

K.S. Dhayaa Shankar

..Appellant/Petitioner

Vs.

G.S. Vanitha @ Radhika

.. Respondent/Respondent

Prayer: Civil Miscellaneous Petition is filed under Section 19 of the Family Courts Act 1984 praying to set aside the order dated 11.10.2018 passed by the Honble V Additional Principal Judge, Family Court, Chennai in I.A.No.3382 of 2017 in H.M.O.P.No.3488 of 2013 and allow the above Civil Miscellaneous Appeal.

For Appellant : Mr. K. Chandra  
For Respondent : Mr. K. S. Kumar

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

This Civil Miscellaneous Appeal is directed against the interim order dated 11.10.2018 in I.A.No.3382 of 2017 in H.M.O.P.No.3488 of 2013 on the file of the V Additional Family Court, Chennai directing the appellant to pay the maintenance to the respondent at the rate of Rs.10,000/- and to the minor child at the rate of Rs.5000/- with effect from 11.10.2017, pending disposal of the Original Petition.

2. The Original Petition in H.M.O.P.No.3488 of 2013 was instituted by the appellant herein for divorce on the ground of desertion. During the currency of the said Original Petition, the respondent filed an Application in I.A.No.3382 of 2017, claiming maintenance.

3. Before the Trial court, the appellant produced documents to show that he was earning a sum of Rs.37,500/- per month and with that salary he has to maintain his parents also.

4. The learned Trial Judge taking into account the financial condition of the appellant and his responsibility to maintain the child, directed him to pay a sum of Rs.10,000/- to the respondent and Rs.5,000/- to the minor child by way of interim maintenance. It is the said order which is under challenge in this Appeal.

5. We have heard the learned counsel for the appellant and the learned counsel for the respondent.

6. There is no dispute that the original proceedings in O.P.No.3488 of 2013 was instituted by the appellant for divorce. The respondent for herself and her minor child initiated interim proceedings in the said Original Petition for maintenance.

7. The learned Trial Judge found that the appellant is employed and he was earning a sum of Rs. 37,500/- and that the respondent was a non earning member. Therefore, the learned Judge directed the appellant to pay maintenance to the respondent and the minor child.

8. The order was passed taking into account the entire materials available on record. The learned Trial Judge exercised the discretion taking into account the background facts. We are, therefore, of the opinion that the impugned order does not call for interference.

9. We direct the appellant to pay a sum of Rs.1,00,000/- within a period of four weeks and the remaining arrears within a period of four weeks thereafter. We also direct the appellant to pay the monthly maintenance as directed by the learned Trial Judge without default.

10. The Civil Miscellaneous Appeal is dismissed with the above direction with regard to payment of arrears and monthly maintenance. No costs. Consequently connected Miscellaneous Petition is closed.

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Sd/-  
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

mrn

To

The V Additional Principal Judge, Family Court, Chennai

+1cc to Mrs.C.Uma, Advocate sr.78242

+1cc to Mr. K. S. Kumar, Advocate sr.77891

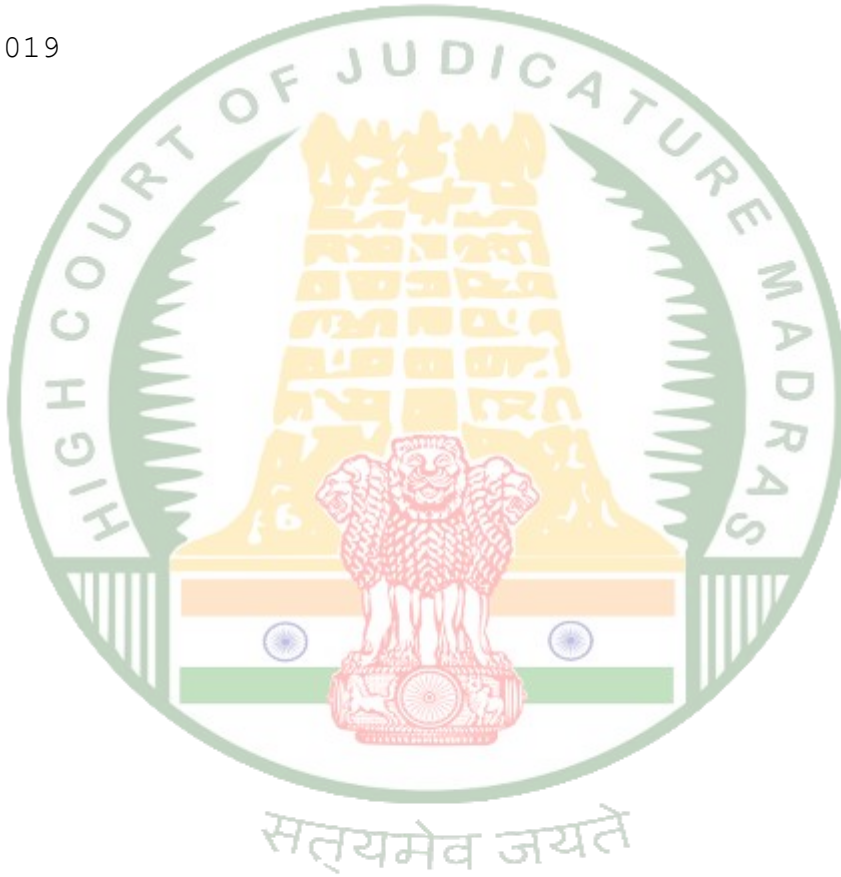
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