



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 20.02.2019

DELIVERED ON : 12.03.2019

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (NPD) (MD) No.1470 of 2015

and

M.P. (MD) No.1 of 2015

Singaravelan

.. Petitioner

Vs.

1.Meenakshi

2.Minor Sujeeth

.. Respondents

(second respondent is minor,

his mother and natural guardian, 1st respondent)

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 29.04.2015 made in I.A.No.212 of 2014 in H.M.O.P.NO.79 of 2013 on the file of the Sub Court, Sivagangai.

For Petitioner : Mr.M.V.Venkataseshan

For Respondents : Mr.B.Prahalad Ravi

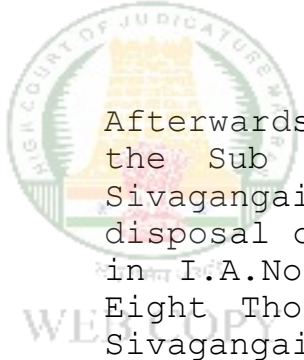
ORDER

Heard Mr.M.V.Venkataseshan, learned counsel appearing for the petitioner and Mr.B.Prahalad Ravi, learned counsel appearing for the respondents.

2.This petition has been filed against the order passed in fair and decreetal order made in I.A.No.212 of 2014 in H.M.O.P.NO.79 of 2013 dated 29.04.2015 on the file of the Sub Court, Sivagangai.

3.The petitioner is the husband and the first respondent is the wife and the marriage between the petitioner and the first respondent was solemnised on 02.09.2009.

4.On the side of the petitioner, it is stated that the wife did not turn up after delivery and the petitioner has filed a petition in H.M.O.P.No.8 of 2011 for restitution of conjugal rights before the Sub Court, Poonamallee and he obtained exparte order on 05.04.2011. The first respondent wife has filed a petition for setting aside the exparte order with delay. The delay excuse petition was dismissed by the Sub Court, Poonamallee on 21.07.2015.



Afterwards the petitioner has filed a petition for divorce before the Sub Court, Poonamallee and that case was transferred to Sivagangai and was numbered as H.M.O.P.No.79 of 2013. Pending disposal of the H.M.O.P, the first respondent wife filed a petition in I.A.No.212 of 2014 seeking maintenance of Rs.8,000/- (Rupees Eight Thousand only) for herself and for minor. The Sub Court, Sivagangai awarded maintenance of Rs.5,000/- (Rupees Five Thousand only) in which, Rs.3,000/- (Rupees Three Thousand only) for the first respondent/wife and Rs.2,000/- (Rupees Two Thousand only) for the second respondent/minor and the petitioner prayed to set aside the order passed by the lower Court.

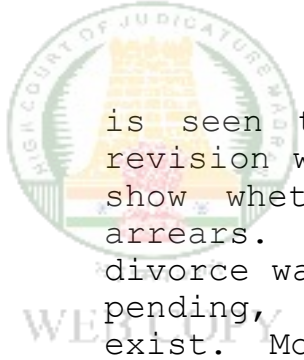
5.On the side of the petitioner, it is stated that the wife filed a complaint against the petitioner under Section 4 of Domestic Violence Act before the Judicial Magistrate, Thirupathur and filed a petition for maintenance in Crl.M.P.No.7 of 2012 and the learned Judicial Magistrate passed an award of Rs.5,000/- (Rupees Five Thousand only). The petitioner filed a revision petition before the Sessions Court, Sivagangai and the same was dismissed. Again the petitioner filed a revision petition before this Court in Crl.R.C.(MD)No.590 of 2016 and the revision petition was dismissed by confirming the order passed by the lower Court.

6.On the side of the petitioner, it is stated that the petitioner is paying maintenance amount without any arrears and the first respondent is also working in a private company. The petitioner has to maintain his aged parents and two maintenance orders was passed against the same petitioner and the petitioner is working in a private company, Chennai as a daily wager and prayed the order of the lower Court is to be set aside.

7.On the side of the respondents, it is stated that the petition filed by the first respondent for divorce in H.M.O.P.No.79 of 2013 was already dismissed for default before one year. When the maintenance petition was filed by the wife before the Sub Court, Sivagangai, there was no order by the learned Judicial Magistrate at that time. The wife has not taken any steps to receive the maintenance amount as per the order of the learned Sub Judge and that No Execution Petition was filed.

8.On the side of the respondents, it is further stated that against the order of the learned Judicial Magistrate, the petitioner has filed a revision petition before this Court and only on the instigation of this Court, the petitioner has paid some amount towards the arrear of maintenance and he is not paying any amount afterwards and the first respondent is suffering with the minor and the petitioner is evading the payment of maintenance.

9.It is seen that the learned Magistrate has passed an order of maintenance against the petitioner. The petitioner has to pay <https://hcservices.ecourts.gov.in/hcservices/> RS.3,000/- (Rupees Three Thousand only) to the wife and Rs.2,000/- (Rupees Two Thousand only) to the minor by way of maintenance. It



is seen that the petitioner filed a revision petition and the revision was dismissed. No material was placed before this Court to show whether the petitioner is paying the amount without any arrears. It is seen that H.M.O.P., filed by the petitioner for divorce was dismissed for default and that when there is no H.M.O.P pending, I.A.No.212 of 2014 seeking maintenance also cease to exist. Moreover, it is clearly admitted on the side of the respondents that the first respondent is not insisting upon the order passed in I.A.No.212 of 2014. When H.M.O.P was already dismissed for default, the order passed in I.A. Petition becomes infructuous. The order of the learned Magistrate for maintenance is not questioned by the petitioner and the order is already confirmed by this Court and the petitioner is bound to pay the arrears of maintenance.

10.In the above circumstances, this Civil Revision Petition is dismissed as infructuous. No Costs. Consequently, M.P.(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar(CS)

Mrn

To

1.The Sub Court, Sivagangai.

+1CC TO MR.M.V.VENKATASESHAN, Advocate Sr. No. 53629

C.R.P. (PD) (MD)No.1470 of 2015

12.03.2019

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