



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2019
(Reserved on 16.08.2019)

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P(PD) (MD)No.180 of 2019
and
C.M.P(MD)Nos.810 and 811 of 2019

Jeyalakshmi

... Petitioner/Petitioner
Respondent

vs.

Senthilkumar @ Chokkalinga Pandian

... Respondent/Respondent
Petitioner

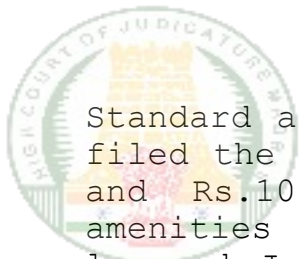
Petition filed under Article 227 of the Constitution of India, to set aside the order made in I.A.No.42 of 2018 in HMOP.No.158 of 2017 passed by the learned Sub Judge, Kovilpatti, Thoothukudi District.

For Petitioner : Mr.Abul Kalaam Azad A.S. for
Mr.RM.Arun Swaminathan
For Respondent : Mr.R.Iyappan

ORDER

This revision petition has been filed against the order made in I.A.No.42 of 2018 in HMOP.No.158 of 2017 passed by the learned Sub Judge, Kovilpatti, Thoothukudi District.

2.The petitioner and the respondent are wife and husband and their marriage was solemnised on 26.10.2001 and out of the wedlock, first daughter namely, Baladharshini, was born on 15.01.2003 and the second daughter namely, Varshini was born on 14.02.2006. According to the petitioner, she and her children were thrown out from the matrimonial home and admittedly petition in DVA.No.14/2017 under Section 12 read with Sections 18, 19, 20, 22 of the Domestic Violence Act 2005, was filed on the file of the Judicial Magistrate Court No.I, Kovilpatti. The respondent filed HMOP.No.158 of 2017 for divorce before the Sub Court, Kovilpatti. During the pendency of both the cases, the petitioner filed I.A.No.42 of 2018 under Section 24 of the Hindu Marriage Act, for maintenance. Admittedly, the petitioner's daughters are studying in 10th Standard and 7th



Standard and the petitioner not able to meet out the expenses, has filed the petition for maintenance claiming Rs.10,000/- for herself and Rs.10,000/- each for her children including food, basic amenities etc., and Rs.20,000/- towards litigation expenses. The learned Judge after hearing both sides, has awarded maintenance at Rs.2,000/- per month for the petitioner, Rs.2,000/- to the children along with Rs.2,000/- towards litigation expenses. Aggrieved by the quantum of maintenance, the wife has filed this revision for enhancement.

3.Learned counsel for the petitioner would submit that the respondent is a police man and he has sufficient means to take care of the family. The Trial Court without considering the monetary fluctuation, inflation and enormous increase in the cost of living, has awarded the meagre amount as maintenance. According to the petitioner, the respondent is having vast land and doing agriculture and therefore, he has the potential to pay the money. Admittedly, the salary certificate of the respondent has been produced which shows that he is receiving salary around Rs.40,000/-. Though no evidence has been placed to prove that the respondent owns agricultural lands, salary certificate of the respondent has been produced before the Court below and therefore, the learned Judge ought to have ordered reasonable amount as maintenance.

4.Learned counsel for the respondent would state that the respondent has to take care of his aged mother and therefore the learned Judge has rightly fixed the maintenance amount which does not require any interference from this Court.

5.Heard the learned counsel for the petitioner as well as the respondent.

6.Admittedly, the salary certificate of the respondent has been produced which would show that the respondent is earning around Rs.40,000/-. To explore the possibility of settlement, the matter was mediated by me and the respondent agreed to pay a sum of Rs.15,000/- per month towards maintenance and also agreed to pay the school fees of the expenses of the children, but failed to file the undertaking affidavit and therefore, the mediation could not succeed. Thus, the matter was heard in the open court.

7.The amount of maintenance must be sufficient to ensure that the petitioner is living with dignity after separating from her husband. Considering the facts and circumstances of the case, this Court is of the view that ends of justice would be met if Rs.15,000/- is ordered as maintenance i.e., Rs.5,000/- each to the petitioner and two children along with Rs.10,000/- towards the litigation expenses. Accordingly, the amount of maintenance awarded by the learned Judge is modified and the respondent is directed to pay the monthly maintenance at Rs.15,000/- from the date of petition



upto September 2019 shall be paid by the respondent within a period of eight weeks from the date of receipt of a copy of this order. The respondent shall continue to pay the maintenance every month from October 2019 on or before the 10th of every English Calender month. The Court below is directed to dispose of the HMOP.No.158 of 2017 within a period of six months from the date of receipt of a copy of this order.

With the above direction, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

The Sub Judge,
Kovilpatti,
Thoothukudi District.

+1 CC to M/s.RM.ARUNSWAMINATHAN, Advocate SR-87440.

+1 CC to M/s.R.IYAPPAN, Advocate SR-88162.

Order made in
C.R.P (PD) (MD) No.180 of 2019
18.09.2019

CS (03.10.2019) 3P 4C