



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) No.1261 of 2019

and

C.M.P (MD) No.6980 of 2019

Sivathanu

.. Petitioner

Vs

Meenatchiammal

.. Respondent

**PRAYER:** Civil Revision Petition is filed under Article 227 of the Constitution of India against the Judgment and decree dated 24.04.2018 made in H.M.C.M.A.No.17 of 2017 by the Third Additional District Court, Tirunelveli, against the order and decreetal order passed in I.A.No.11/2016 of HMOP No.96/2015 dated 08.12.2016 on the file of the Sub Court, Ambasamudram.

For petitioner

: Mr.S.Rajasekar

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**ORDER**

This Civil Revision Petition is filed against the Judgment and decree dated 24.04.2018 made in H.M.C.M.A.No.17 of 2017 by the Third Additional District Court, Tirunelveli, whereby, the Court below enhanced the maintenance amount to the respondent herein.

2. The petitioner herein is the husband of the respondent and the respondent herein is the wife of the petitioner herein. Originally, this petitioner filed H.M.O.P.No.96 of 2015 before the Sub Court, Ambasamudram, seeking divorce. During pendency of the same, the respondent filed I.A.No.11 of 2016 seeking interim monthly maintenance and the Court below allowed the petition partly by directing the petitioner herein to pay a sum of Rs.5,000/- per month each to the respondent and her minor child towards monthly maintenance and also litigation expenses of Rs.10,000/-. As against which, the respondent filed H.M.C.M.A.No.17 of 2017 before the Third Additional District Court, Tirunelveli and the Appellate Court has allowed the same partly by enhancing the interim monthly maintenance to Rs.7,500/- each from Rs.5,000/- to the respondent and her minor child. Against which, the present Civil Revision Petition has been filed.



3. The learned counsel appearing for the petitioner would submit that the Court below without appreciating the evidence on record had allowed the claim of the respondent. He would further submit that the petitioner is paying monthly maintenance of Rs.15,000/- to the respondent as per the order passed in the proceedings under the Domestic Violence Act and also filed the present application seeking interim monthly maintenance in the divorce proceedings. But, the trial Court without considering the same has ordered interim monthly maintenance to the tune of Rs.5,000/- each to the respondent and her child and the Appellate Court has also enhanced the same. Thus, he prayed to set aside the same.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Perusal of records shows that the petitioner is an eye specialist and he is working as an Assistant Professor in Tirunelveli Government Medical College Hospital, Tirunelveli and drawing a salary of Rs.75,000/- per month which is not denied by him by marking his salary certificate. He is also running a private eye hospital which is also not denied by him with proper documents. The other properties held by the petitioner as claimed by the respondent also not specifically denied by the petitioner. The child born to them is admittedly looked after by the respondent and brought up by her. The trial Court after considering the day-to-day expenses of the respondent as well as the child, ordered to pay a sum of Rs.5,000/- each to them as monthly maintenance. On appeal, the Appellate Court after considering various factors as set out in its order, had enhanced the same to Rs.7,500/- each to the respondent and the child. Therefore, viewed from any angle, the amount awarded by the Court below is nothing but pittance on account of the fact that the petitioner is the Doctor holding responsible position in the society.

6. The claim of maintenance under the Domestic Violence Act and the divorce proceedings are independent each other and admittedly, the scope of Section 20 of the Domestic Violence Act is much wider and therefore, the wife is entitled to maintenance under the divorce proceedings as well as the proceedings under the Domestic Violence Act. The appellate court has also observed that the respondent is entitled to have standard of living on par with the petitioner. The petitioner being Ophthalmologist, his wife and children are entitled to have the same standard of living on par with the petitioner and therefore, in my considered opinion, the amount awarded by the Court below does not warrant any interference.



Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

WEB COPY

Sd/-

Assistant Registrar (Ad-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Third Additional District Court,  
Tirunelveli.

+1 CC to Mr. T. LAJAPATHI ROY, Advocate SR-80037.

**ORDER MADE IN  
C.R.P (MD) No. 1261 of 2019  
02.08.2019**

CS(18.09.2019) 3P 3C