



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CRP(MD)No.1567 of 2019
and CMP(MD)No.8286 of 2019

Subbulakshmi

... Petitioner

versus

S.Somasundar

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed in I.A.SR.No.6107 of 2019 in H.M.C.M.A.No.58 of 2017 on the file of the Principal District Court, Thoothukudi.

For Petitioner : Mr.S.Ramesh

ORDER

The revision petitioner is the wife of the respondent herein. Originally, the respondent, who is the husband of the revision petitioner, filed H.M.O.P.No.57 of 2012 before the learned Subordinate Judge, Kovilpatti, seeking dissolution of marriage that was solemnized on 29.08.2010. Pending petition, the wife filed I.A.No.145 of 2012 seeking interim maintenance from her husband and that petition was allowed, by directing the husband to pay monthly maintenance of Rs.7,500/-. After contest, the learned Subordinate Judge, Kovilpatti, by order dated 01.09.2017, dismissed the petition in H.M.O.P.No.57 of 2012. Aggrieved against the said order, the husband preferred an appeal in H.M.C.M.A.No.58 of 2017 on the file of the Principal District Court, Thoothukudi. Pending appeal, the wife filed I.A.No.27 of 2019, seeking monthly maintenance of Rs.30,000/- and also a sum of Rs.10,000/- towards litigation expenses. In the said application, the Court below, by order dated 18.06.2019, based on the undertaking given by the husband, directed the husband to pay monthly maintenance to his wife, as per the earlier order passed in I.A.No.145 of 2012.

2. Now, it is the case of the wife/revision petitioner that the respondent herein paid monthly maintenance till June 2017 and thereafter, he did not pay monthly maintenance from July 2017 to June 2019. Seeking arrears of maintenance, that comes to Rs.1,80,000/-, i.e. from July 2017 to June 2019, an application in



I.A.SR.No.6107 of 2019 has been filed by the wife before the learned Principal District Judge, Tuticorin. But, the said application was returned by the Court since the appeal is at the stage of arguments. Aggrieved over the same, the present petition has been filed.

3. The learned counsel appearing for the revision petitioner submitted that the respondent herein is working as an Engineer in the Public Works Department and he is able to pay monthly maintenance without any arrears. But, the respondent did not pay maintenance from July 2017 to June 2019, that arrears comes to Rs.1,80,000/-.

4. The learned counsel further submitted that the revision petitioner is not working anywhere else and she is living along with her parent and she totally depends upon her parents to meet out her day-to-day requirement. Hence, the revision petitioner has filed I.A.SR.No.6107 of 2019 seeking arrears of maintenance. But, the Court below, without considering the said facts, simply returned the said application stating that the appeal preferred by the husband is at the stage of arguments. Further, the learned counsel submitted that without numbering the said application in I.A.SR.No.6107 of 2019, she is not in a position to get any order with regard to the arrears of maintenance. Hence, the learned counsel prayed for a direction to the learned Principal District Judge, Tuticorin, to number the application in I.A.SR.No.6107 of 2019 and dispose of the same within a time limit as fixed by this Court.

5. Heard the learned counsel for the revision petitioner.

6. Admittedly, the Court below, in I.A.No.145 of 2012, directed the husband to pay monthly maintenance of Rs.7,500/-. As per the direction of the Court below, the husband paid the monthly maintenance of Rs.7,500/- till June 2017, after which, he did not pay the monthly maintenance to his wife.

7. The husband is working as Engineer in the Public Works Department and hence, he is very much able to pay the maintenance amount as ordered by the Court below. Furthermore, the wife totally depends upon her parents to meet out her day-to-day requirements as she is not working elsewhere, which compelled her to file the application in I.A.SR.No.6170 of 2017 seeking arrears of maintenance. Though the appeal preferred by the husband is pending before the Appellate Court, the arrears of maintenance can be ordered considering the prevailing situations in and around the wife and also considering the undertaking given by the husband before the Court below. If the application in I.A.SR.No.6170 of 2017 is not numbered, the wife could not get the monthly maintenance amount. Hence, this Court is of the view that it would be appropriate to direct the learned Principal District Judge, Tuticorin, to number the application in I.A.SR.No.6170 of 2017 and to dispose of the same.



8. Accordingly, the learned Principal District Judge, Tuticorin, is directed to number the application in I.A.SR.No.6170 of 2017 and after numbering the said application, dispose of the same, within a period of two months from the date of receipt of a copy of this order and also directed to dispose of H.M.C.M.A.No.58 of 2017 on merits and in accordance with law, within a period of one month thereafter.

9. With the above directions, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

The Principal District Judge, Thoothukudi.

+1 CC to M/s.V.RAGHAVACHARI, Advocate (SR-86330[F] dated 12/09/2019

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