



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.09.2019
CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P (MD)No.2536 of 2018 and
CMP (MD).No. 11144 of 2018

M. Udayaram

... Petitioner/Respondent/Respondent

Vs.

Gopika

... Respondent/Petitioner/Petitioner

PRAYER: This Civil Revision Petition is filed under Article 227 of Constitution of India against the fair and decreetal passed in I.A.No. 252 of 2017 in HMOP.No. 302 of 2017 on the file of Sub Court, Theni, dated 14.08.2018 by allowing the Civil Revision Petition.

For Petitioner : Mr. C. Vakeeswaran
For Respondents : Mr. K. Guhan

ORDER

This Civil Revision Petition has been filed against the Award of interim maintenance passed by the Court below in I.A.No.252 of 2017 in HMOP.No. 302 of 2017 on the file of Sub Court, Theni, dated 14.08.2018.

2. The Court below ordered a sum of Rs. 7,500/- per month as maintenance to the respondent / wife to be paid by the revision petitioner / husband. Originally, the respondent / wife filed the interim maintenance before the Court below for issuing a direction to the revision petitioner to pay a sum of Rs.25,000/- as maintenance, pending HMOP.No. 302 of 2017. However, the Court below considering the fact of non employment of the revision petitioner / husband, has fixed a sum of Rs.7,500/- per month as interim maintenance to be payable by the revision petitioner / husband to the respondent / wife.

3. It is the contention of the revision petitioner that he was a Seaman at Anglo Eastern Ship Management Limited, Hongkong for a monthly salary of Rs.1,00,000/- and he worked for the period from 21.09.2014 to 15.06.2015, from 27.09.2015 to 03.06.2016 and thereafter, from 05.11.2016 to 23.07.2017. At present, he did not work anywhere and he is unemployed and hence, the revision petitioner is not in a position to pay a sum of Rs.7,500/- per



month. Therefore, he filed the present revision petition for reducing the interim maintenance.

4. Today, when the matter was taken up for hearing, the learned counsel appearing for the revision petitioner would submit that the revision petitioner herein is agreed to pay a sum of Rs.5,000/- per month as maintenance and in this regard, he has also filed an affidavit of undertaking. He also further undertakes to pay a sum of Rs.5,000/- as litigation expenses along with arrears of interim maintenance. He would further submit that up to September 2019, he is liable to pay a sum of Rs. 1,10,000/- towards arrears of maintenance and Rs.5,000/- towards litigation expenses and that the same would be paid within a period of two weeks from the date of receipt of a copy this order directly to the respondent herein or by way of Demand Draft.

5. The learned counsel appearing for the respondent would contend that the respondent was working as a Seaman and earned a sum of Rs.1,00,000/- per month and he has earned a lot of money upto September 2017 and therefore, this petition may be dismissed.

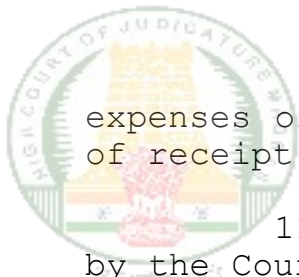
6. On the other hand,, the learned counsel appearing for the petitioner would submit that due to non-employment, the money earned by the petitioner was already spent for his livelihood. Hence, he can able to pay only a sum of Rs.5,000/- per month as maintenance.

7. I have heard the learned counsel appearing on either side and perused the materials available on record.

8. Admittedly, it is not disputed by the petitioner that he was working as a Seaman and earning a sum of Rs.1,00,000/- per month. But, now he submitted that he is not working any where from August 2017. The respondent is not in a position to show the evidence about the present employment of the revision petitioner.

9. In any event, the learned counsel appearing for the revision petitioner at the time of arguments would submit that the respondent is working as a school Teacher and hence, she can maintain herself. On the other hand, the learned counsel appearing for the respondent would submit that the respondent is not working anywhere.

10. In such circumstances, when the petitioner is not working anywhere since September 2017, it is not appropriate to direct the petitioner to pay a sum of Rs.7,500/- per month as maintenance. Hence, this Court is inclined to accept the undertaking affidavit and to direct the revision petitioner to pay a sum of Rs.5,000/- towards maintenance along with arrears of sum of Rs.5,000/- towards litigation expenses till the month of September 2019 and litigation



expenses of Rs.5,000/-, within a period of two weeks from the date of receipt of a copy of this order.

11. In view of the above, the order dated 14.08.2018 passed by the Court below in I.A.No. 252 of 2017, is modified to the effect that the petitioner shall pay a sum of Rs.5,000/- instead of Rs.7,500/- as interim maintenance from the date of petition till the month of September 2019 along with litigation expenses of Rs.5,000/-, within a period of two weeks from the date of receipt of a copy of this order. After payment of arrears as stated above, the revision petitioner is directed to pay the monthly maintenance on or before 10th day of every English Calendar Month.

12. Since the HMOP is pending from 2017, this Court directs the Court below to dispose the HMOP No. 302 of 2017, pending on its file within a period of six months from the date of receipt of a copy of this order.

13. This Civil Revision Petition stands disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Sub Court, Theni

2. The Section Officer,
VR Section, (2 copies)
Madurai Bench of Madras High Court, Madurai

+1 CC to Mr.K.GUHAN, Advocate (SR-88714[F] dated 24/09/2019)

+1 CC to Mr.C.VAKEESWARAN, Advocate (SR-88966[F] dated 24/09/2019)

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