THE HONOURABLE SRI JUSTICE M.S. RAMACHANDRA RAO

CRP. No.1223 of 2019

ORDER:

This Revision is filed under Article 227 of the Constitution of India challenging the order dt.13.03.2019 passed in I.A. No.412 of 2018 in FCOP. No.2395 of 2017 by the XV Additional District Judge-cum-XV Metropolitan Session Judge-cum-II Additional, Family Judge, Kukatpally, Ranga Reddy District.

2. The petitioner filed the said OP., for dissolution of the marriage between himself and the 1st respondent, which took place on 22.08.2008 alleging that the 1st respondent had treated him with cruelty.

3. Pending the said OP, the respondent filed I.A.No.412 of 2018 under Section 24 of the Hindu Marriage Act seeking monthly maintenance of Rs.15,000/- for the 1st respondent and to the 2nd respondent and Rs.10,000/- towards legal expenses apart from traveling expenses.

4. In the affidavit filed in support of the said application the 1st respondent stated that she did not have sufficient income to meet her livelihood and children's expenses, that she is depending on her parents and she has to attend the Court case by coming from her village from Guntur district. She also stated that the petitioner has two bed room flat worth Rs.40,00,000/- and he is getting income Rs.40,000/- to Rs.70,000/- per month.

5. Counter affidavit was filed opposing the said application stating that his paying capacity is very low though he is paying monthly EMI Rs.12,457/- for housing loan for his purchased apartment in Hyderabad and that he had also taken a two wheeler loan for which he is paying monthly EMI Rs.4,997/- per month. It is stated that he is working as a Still Photographer in the movie industry and he does not get monthly income like a Government job. According to him, his monthly income will be Rs.20,000/- per month after deducting EMI payments mentioned above.

6. By order dt.13.03.2019, the Court below partly allowed the said application and granted Rs.10,000/- per month towards monthly maintenance and legal expenses for the 1st respondent from the date of the application. It took into account the statements made in the OP and in the counter filed by the parties and held that sum of Rs.10,000/- per month towards maintenance and legal expenses of the respondent is appropriate.

7. Assailing the same this Revision is filed.

8. Counsel for the petitioner contended that the petitioner is not a regular salaried person and he does not have the capacity to pay the maintenance of Rs.10,000/- to the respondents.

9. It is important to note that the 1st respondent had claimed Rs.15,000/- per month as maintenance for the respondents and Rs.10,000/- towards legal expenses apart from Rs.1,000/- for every

visit to Hyderabad to attend the Court. Thus the respondent claimed Rs.25,000/- plus travel expenses. But the Court below has granted only Rs.10,000/- per month towards maintenance and legal expenses to the respondent.

10. When the petitioner is paying Rs.12,457/- as loan EMI for the apartment in his occupation and Rs.4,997/- as EMI for two wheeler loan, he would certainly have the capacity to pay Rs..10,000/- to respondents and it cannot be said that the sum of Rs.10,000/- per month awarded to the respondents is excessive or unwanted. It is the duty of the petitioner to provide maintenance to the respondents and he cannot shirk the responsibility by taking such pleas.

11. In view of the above, I do not find any error of jurisdiction in the order passed by the Court below warranting interference by this Court under Article 227 of the Constitution of India.

12. Accordingly, this Revision fails and is dismissed. There shall be no order as to costs.

13. As a sequel, miscellaneous applications, if any pending, shall stand closed.

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JUSTICE M.S.RAMACHANDRA RAO

Date: 25.06.2019
LSK