

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP No.4174 of 2018

ORDER:

This Revision is filed challenging the order dt.21.05.2018 in I.A.No.283 of 2018 in I.A.No.251 of 2015 in O.P.No.1518 of 2013 of the Principal Judge, Family Court, City Civil Court, Hyderabad.

2. Petitioner herein filed the said O.P. seeking divorce against the 1st respondent alleging cruelty and other grounds.

3. Counter affidavit was filed by the 1st respondent opposing the same.

4. Pending the O.P., the 1st respondent filed I.A.No.251 of 2015 under Section 24 of the Hindu Marriage Act, 1955 seeking interim maintenance @ Rs.10,000/- per month each, for herself and for minor child(2nd respondent) born to the petitioner and the 1st respondent towards maintenance, Rs.25,000/- per month towards medical and physiotherapy expenses, Rs.10,000/- towards school fees, books, etc., and a fixed amount of Rs.20,000/- towards legal expenses.

5. After contest, on 30.10.2015, the Court below directed payment of Rs.10,000/- to the 2nd respondent towards

maintenance from the date of filing of the petition and rejected the rest of the claims.

6. Thereafter, I.A.No.283 of 2018 was filed by the respondents seeking enhancement of maintenance amount from Rs.10,000/- to Rs.67,000/- per month. It is contended by the 1st respondent that the amount of Rs.10,000/- granted earlier is not adequate since the child requires treatment including physiotherapy, and so the amount of interim maintenance granted to the child is enhanced from Rs.10,000/- to Rs.67,000/- per month.

7. Counter affidavit was filed by the petitioner opposing the same and contending that the earlier order operates as *res judicata*. He stated that he had a medical card/health card given by his employer with regard to the 2nd respondent, which he had already handed over to the 1st respondent; and that there is no evidence in respect of educational expenses sought by the 1st respondent for the 2nd respondent. He also stated that the child(2nd respondent) was taken to different hospitals at Bangalore by both parties and he was also treated by a Nutrition Expert, and that the petitioner undertook to provide the cost of diet supplements as and when intended by the 1st respondent.

8. By order dt.21.05.2018, the Court below allowed the said application and increased the monthly maintenance to Rs.30,000/- per month for the 2nd respondent from the date of filing of I.A.No.283 of 2018 and petitioner was also directed to reimburse medical expenses of the 2nd respondent on production of bills by the 1st respondent after the said amount was spent by her.

9. In the said order, the Court below noted that the 2nd respondent was suffering from an ailment which requires him to be carried personally by the 1st respondent since he is unable to walk independently, and that the child needs care and attention of the 1st respondent, apart from money for his education and treatment. It observed that the sum of Rs.10,000/- per month granted on 30.10.2015 would not at all be sufficient to meet the maintenance expenses and treatment of the 2nd respondent, and that due to escalation of prices of accommodation and increased cost of living and also cost of treatment, such increase in the interim maintenance was warranted. It recorded that the petitioner was employed in Government of India Organization ISRO as Scientist "G" but he did not file any salary certificate showing what his salary is, and so, he can be presumed to have

sufficient financial capacity to pay the increased maintenance.

10. Assailing the same, this Revision is filed.

11. Counsel for the petitioner contended that the petitioner had in fact taken voluntary retirement from service after receiving Rs.60 lakhs as compensation, but the petitioner omitted to mention the same before the Court below in the counter filed in I.A.No.283 of 2018.

12. Why the petitioner suppressed the said fact in the Court below is not disclosed by the petitioner. For the first time, in I.A.No.1 of 2018 filed on 18.07.2018 in this Revision, this fact is mentioned.

13. Counsel for the petitioner did not dispute that the child is unable to walk by himself because of muscular dystrophy and has to be carried by the 1st respondent, and that he requires complete attention from the 1st respondent apart from medical treatment and appropriate diet.

14. As a parent, it is the duty of the petitioner to meet the said requirements, whatever be his disputes with the 1st respondent.

15. Having regard to the increased cost of living and also increase in cost of treatment, the sum of Rs.30,000/- per month granted towards interim maintenance to the 2nd respondent by the Court below cannot be said to be abnormal or excessive.

16. I therefore 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.

17. Accordingly, this Civil Revision Petition fails and it is dismissed. No order as to costs.

18. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

11th July, 2019.

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