

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P. No.6137 of 2018

O R D E R:

This Revision is filed under Article 227 of Constitution of India challenging the order dt. 16.08.2018 in I.A.No.344 of 2017 in O.P.No.450 of 2016 of the Judge, Family Court, Secunderabad, refusing interim maintenance under Section 24 of Hindu Marriage Act, 1955 (for short 'the Act') to the petitioner.

2. A reading of the order seems to indicate that the basis of the order is not that the petitioner has any actual income but because of her qualification, the Court presumed that she had adequate income. The Court below has also put a negative burden of proof on the petitioner to prove that she is unable to get projects for supporting herself.

3. Therefore, in my opinion, the said order cannot be sustained. It is accordingly set aside and the matter is remanded to Family Court at Secunderabad to reconsider the issue as to whether the petitioner is entitled to interim maintenance under Section 24 of the Act.

4. Both the parties are permitted to lead evidence with regard to their respective sources of income and shall also file their respective income tax returns from the financial year 2015-16 till date before the Court below.

5. The Court below shall decide I.A.No.344 of 2017 before 30.06.2019, after considering the material produced by both sides, in accordance with law.

6. Accordingly, the Civil Revision Petition is disposed of.
No order as to costs.

7. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

17.04.2019
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