

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.R.P.(PD) No.2063 of 2016
and C.M.P.No.10752 of 2016

Manish Kumar

... Respondent/Petitioner/Petitioner

-vs-

1. Mrs.Deepthi

2. Minor M.Eshan

Rep. by its mother / 1st Respondent

... Petitioner/Respondent/Respondent

PRAYER: Petition is filed under Article 227 of the Constitution of India to set aside the Fair and Decreetal Order passed by the learned Subordinate Judge, Poonamallee in I.A.No.203 of 2014 in H.M.O.P.No.225 of 2013 dated 23.09.2014 and allow the CRP.

For Petitioner : Mr.S.Parthasarathy

For Respondents : Mr.M.Selvam

ORDER

The petitioner / husband filed H.M.O.P.No.225 of 2013 before the Sub Court at Ponneri for dissolution of the marriage, in which the 1st respondent herein / wife filed I.A.No.203 of 2014 for a direction to the husband to pay Rs.20,000/- per month as monthly maintenance in addition to payment of Rs.10,000/- towards litigation expenses. Learned Subordinate Judge, Poonamallee has passed a decreetal order on 23.09.2014, granting Rs.10,000/- towards interim monthly maintenance and Rs.5,000/- as one time payment for litigation expenses. Aggrieved by the said order, the petitioner / husband is before this Court.

2. It is the case of the 1st respondent / wife that her marriage with the petitioner took place on 29.01.2012 and out of their wedlock, they were blessed with a male child. It is also the case of the wife that she is unemployed, having no source of income to maintain herself and the child and her husband has been drawing Rs.30,000/- as monthly salary.

3. The petitioner / husband has admitted his salary as Rs.30,000/- and also admitted that he is duty bound to maintain both his wife and child. However, he has stated that his wife is an Engineering Graduate and she could very well get an employment and maintain herself. It is prayed that since the claim made by the 1st respondent is exorbitant, he has approached this Court for setting aside the order dated 23.09.2014.

4. Heard the learned counsel for the parties and perused the material documents available on record.

5. The present claim has been made by the 1st respondent / wife under Section 24 of the Hindu Marriage Act and the Court below has rightly held that the wife and child have to be maintained by the husband and that the sum of Rs.10,000/-, namely, 1/3rd salary of the petitioner has been ordered to be paid as interim maintenance. Merely because he has to repay the jewel loan and meet out his own personal expenses cannot be the ground for seeking reduction of maintenance amount awarded by the Sub Court, Poonamallee. Considering the fact that the interim maintenance ordered by the Court below cannot be said to be exorbitant, as feeding a child is costlier than feeding an adult, this Court finds

no error in the order passed by the learned Subordinate Judge, Poonamallee and the present petition is liable to be dismissed.

6. Accordingly, the Civil Revision Petition is dismissed. In case the petitioner herein is able to establish that the wife has got a job elsewhere, it is open to him to file necessary application before the appropriate Forum either for reduction of the amount or for refusing to pay the amount to wife. In any event, the payment towards maintenance of the child cannot, at any costs, be stopped. The Trial Court is directed to conduct the case in H.M.O.P.No.225 of 2013 on a day to-day basis without adjourning the same beyond seven (7) working days at any point of time and bring the issue to a logical end as expeditiously as possible, preferably within six month from the date of receipt of a copy of this order, as the HMOP is of the year 2013. No costs. Consequently, connected Miscellaneous Petition is closed.

16.03.2020

Index: Yes / No
Internet: Yes / No
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To:

The Subordinate Judge,
Poonamallee

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S.VAIDYANATHAN,J.
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