

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.2897 of 2018 and
CMP No.16967 of 2018

Mrs.Bhakiyalakshmi

... Petitioner

Vs

N.V.Tejkiran

... Respondent

Prayer: The Civil Revision petition filed under Section 115 of the Code of Civil Procedure, praying to modify and enhance the maintenance granted in IA No.230 of 2018 in O.P.No.561 of 2017 on the file of the learned Subordinate Judge, Thiruvallur, dated 03.07.2018 and allow this appeal.

For Petitioner : Mr.P.Anandan

For Respondent : Mr.R.Bharath Kumar

ORDER

The wife who had been awarded a sum of Rs.5,000/- towards interim maintenance for herself and her child in an application under Section 24 of the Hindu Marriage Act, has come up with this Civil Revision petition seeking enhancement.

2. The main original petition namely HMOP No.561 of 2017 was filed by the wife seeking restitution of conjugal rights. During the pendency of the same, the petitioner, wife filed an application in IA No.230 of 2018 seeking interim maintenance at the rate of Rs.20,000/- per month for herself and her child and Rs.15,000/- for litigation expenses.

3. The said application was resisted by the respondent / husband contending that the petitioner is an engineering graduate and she is gainfully employed and therefore she is not entitled to any maintenance. The respondent would also contend that he had quit the job and he is jobless as of now.

4. The trial Court upon a consideration of the averments in the affidavit and the counter, awarded only a sum of Rs.5,000/- per month towards maintenance and Rs.5,000/- towards litigation expenses.

5. I have heard Mr.P.Anandan, learned counsel appearing for the petitioner and Mr.R.Bharath Kumar, learned counsel appearing for the respondent.

6. Mr.P.Anandan, learned counsel appearing for the petitioner would vehemently contend that a sum of Rs.5,000/- is very low and the same won't be sufficient even for the child's maintenance.

7. Mr.R.Bharath Kumar, learned counsel appearing for the respondent would however point out that the petitioner, wife has admitted that she is employed. He would also draw my attention to the averments in the affidavit filed in support of the application itself which states that the petitioner is not properly employed.

8. The learned trial Judge has also taken into account of the fact that the petitioner herself has admitted that she is employed. However, it is seen from the records that she has not chosen to produce any details of her employment to show her income and the fact that such income is less, so as to enable her to claim maintenance from the husband. No doubt, the petitioner has failed to produce such evidence. But, the duty of the husband to maintain the wife and child cannot also be ignored. The amount granted by the trial Court namely Rs.5,000/- in today circumstances, is wholly insufficient even for the maintenance of the child. Admittedly the father was employed and he was earning Rs.50,000/- per month. He now claims that he has resigned the job and he is living with his parents. That alone cannot be a ground to either reject maintenance or award a paltry sum of Rs.5,000/- as maintenance.

9. Considering the overall circumstances, I am of the opinion that a sum of Rs.10,000/- would be proper maintenance for the petitioner and the child. Hence, the Civil Revision petition is allowed. The monthly maintenance is fixed at Rs.10,000/- (Rupees ten thousand only) payable

from the date of filing of the petition in IA No.230 of 2018.

10. Considering the fact that the HMOP is of the year 2017 and the evidence is almost over, the Sub Court, Thiruvallur is directed to dispose of the HMOP within a period of four months from the date of resumption of the physical hearings in the said Court. No costs. Consequently, connected miscellaneous petition is closed.

28.09.2020

Note: Time bound order

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Index: Yes/No

Speaking order / Non speaking order

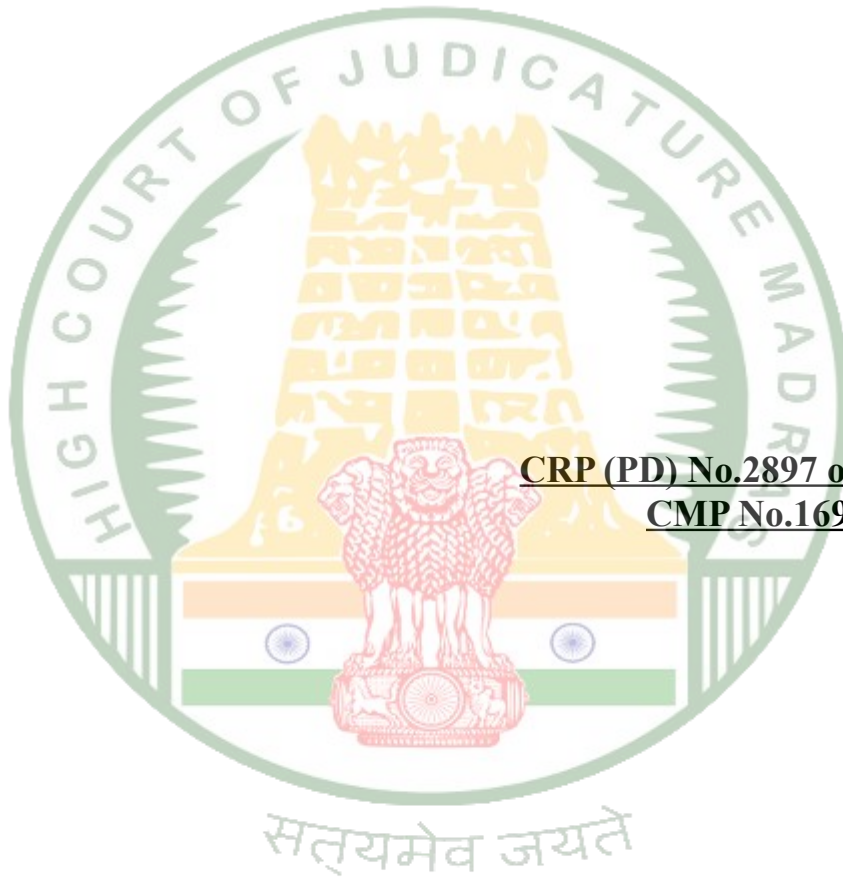
To

The Subordinate Judge, Thiruvallur.

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R.SUBRAMANIAN, J.

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