

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. PD 458 of 2018
and
C.M.P.s 2416 & 12391 of 2018

N.Rajkumar ... Petitioner

Versus

Mrs.A.Anthony Fathima
@ Leona ... Respondent

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and final order dated 10.01.2018 made in I.A. 273 of 2017 in O.P. 2571 of 2016 passed by the learned VI Addl. Family Court Judge at Chennai.

For Petitioner : Mr.K.P.Chandrasekaran

For Respondent : Mr. Om Sairam

ORDER

This Civil Revision Petition has been filed against the order allowing the application filed by the respondent under Sec.37 of Indian Divorce Act seeking maintenance.

2. The petitioner husband filed a Original Petition seeking for divorce under Sec. 10(1)(ix) of Indian Divorce Act. Pending O.P., the respondent wife filed an application seeking for interim maintenance at the rate of Rs.15,000/- to the petitioner, and another sum of Rs.10,000/- towards minor child, and Rs.50,000/- towards litigation expenses. The Family Court by an order dated 10.01.2018 partly allowed the application, thereby directing the petitioner husband to pay a sum of Rs.8000/- per month to the petitioner, and Rs.4000/- per month to the minor child towards interim maintenance from the date of petition till the disposal of main petition, and also to pay a sum of Rs.10,000/- towards litigation expenses to the respondent. Challenging the same, the present Civil Revision Petition has been filed.

3. Pending Civil Revision Petition, this Court by an order dated 12.02.2018, directed the petitioner to pay a sum of Rs.4000/- per month to the minor child and Rs.2000/- per month

to the respondent towards interim maintenance from the date of petition i.e. 27.01.2017 till January 2018.

4. Today, when the matter taken up for hearing, Mr.K.P.Chandrasekaran, learned counsel appearing for petitioner would submit that, as per the order of this Court, the petitioner has deposited the interim maintenance to the respondent and minor child, and he is also continuing to deposit the maintenance at the rate of Rs.6000/- to the credit of the Family Court, Chennai. The learned counsel also submitted that, the petitioner is only a tourist car driver, and he is earning a meagre income. Hence, the maintenance amount awarded by the Family Court is exorbitant and he is not in a position to pay the amount awarded by the Court below. Therefore, he seeks modification of the order passed by the Family Court, Chennai.

5. I have considered the submissions made by learned counsel appearing for petitioner as well as the learned counsel appearing for respondent and perused the materials available on record carefully.

6. From the perusal of records, it could be seen that, there is no materials available to show the income of the petitioner, now it is stated that the petitioner is a tourist car driver and not in a position to pay the amount ordered by the court below. Considering the above circumstances, I am inclined to modify the order of the court below as follows :-

“The petitioner is directed to pay a sum of Rs.5000/- per month to the respondent, and Rs.3000/- per month to the minor child towards interim maintenance, totally, a sum of Rs.8000/- payable from the date of petition i.e. 27.01.2017 till today. Further directed to pay difference of maintenance amount within a period of four weeks from the date of receipt of the copy of this order, and continue to pay the maintenance at the rate of Rs.5000/- to the petitioner and Rs.3000/- to minor child. The respondent is directed to withdraw the amount already deposited by the petitioner. So far as remaining and future maintenance, the petitioner is directed to pay the maintenance directly to the account of the respondent and the respondent is directed to furnish details of her bank account to the petitioner.”

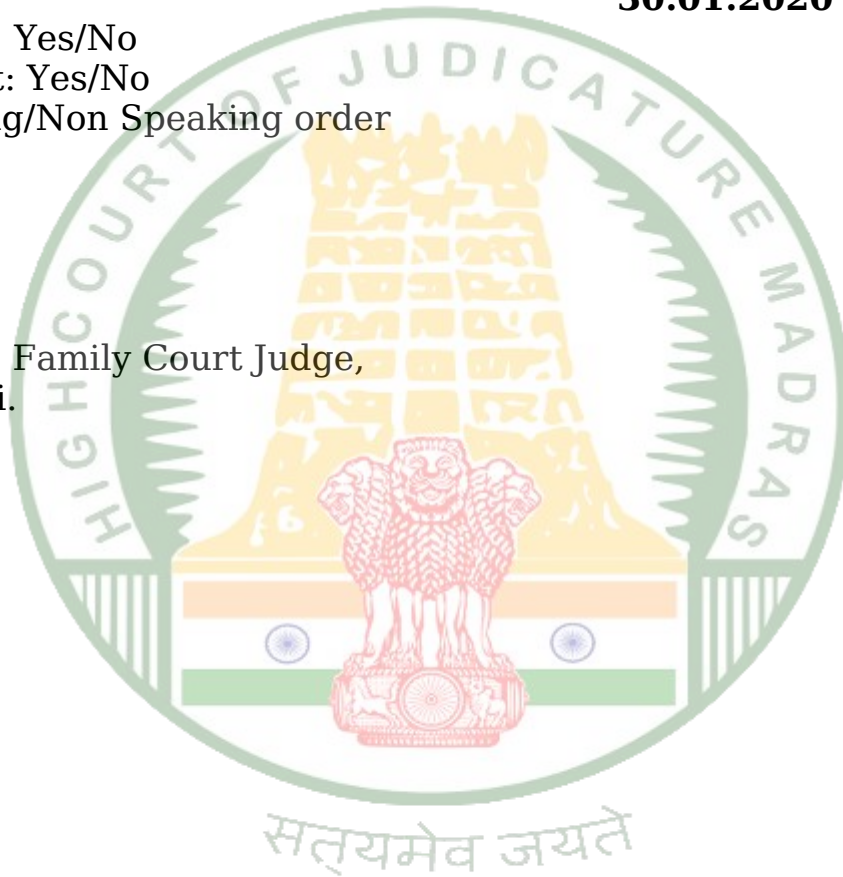
7. With the above modification, this Civil Revision Petition stands disposed of. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

30.01.2020

Index : Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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To

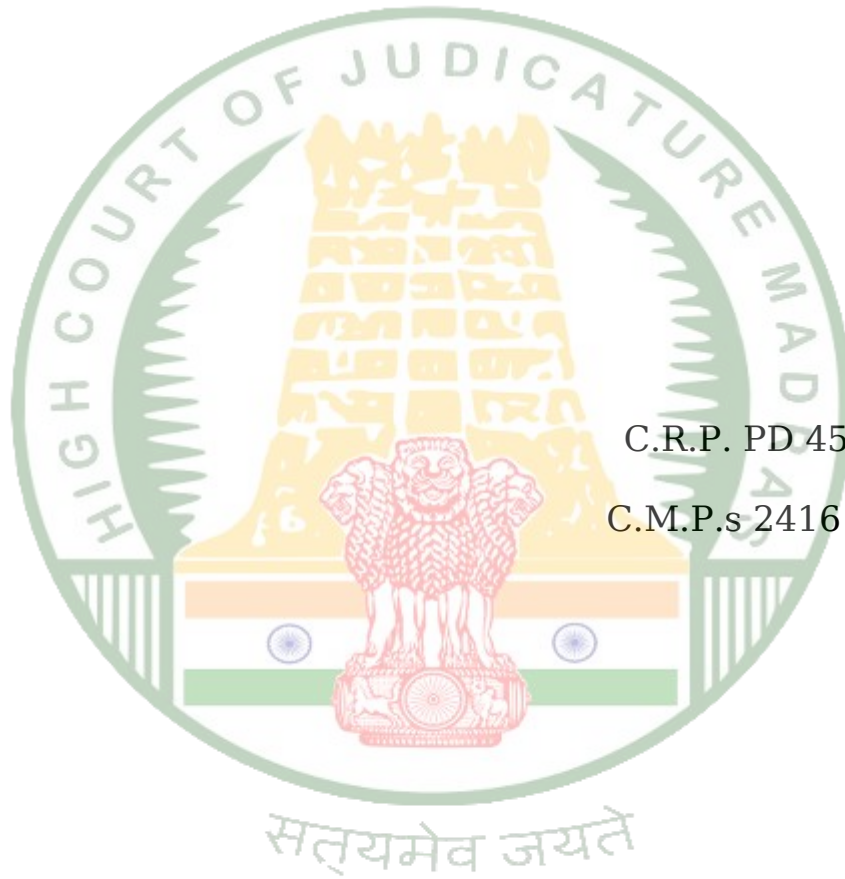
VI Addl. Family Court Judge,
Chennai.



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V.BHARATHIDASAN,J.

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