

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No.3781 of 2019

C.Guptharajan ... Appellant/Respondent/Respondent

Vs.

K.Maheshwari ... Respondent/Petitioner/Petitioner

PRAYER : Appeal filed under Section 19 of the Family Courts Act, 1984 to set aside the fair and final order passed in I.A.No.888 of 2018 in F.C.O.P.No.295 of 2017 dated 04.06.2019 passed by Family Court, Vellore.

For Appellant : Mr.B.Jawahar

For Respondent : Mr.PA.Sudesh Kumar

JUDGMENT

(Delivered by M.M.SUNDRESH.,J)

This appeal is preferred by the appellant/husband, pending main petition filed in F.C.O.P.No.295 of 2017 for restitution of conjugal rights.

2. The Family Court awarded a sum of Rs.5,000/- to be payable by the appellant towards the interim maintenance.

3. The learned counsel appearing for the appellant submitted that the order has come into being in view of the non-compliance of the order passed in M.C.No.07 of 2012 for a sum of Rs.5,000/-. The said order has been complied with. Therefore, the order passed by the Family Court in I.A.No.888 of 2018 requires interference.

4. The learned counsel appearing for the respondent submitted that this order has been passed under Section 24 of the Hindu Marriage Act, 1955 and, therefore, the same being independent, no interference is required.

5. On a perusal of the order under challenge, it appears that it has been passed by taking note of the fact that the appellant was not complying with the earlier order passed in the matrimonial case filed by the respondent. Inasmuch as now the same is being complied with, certainly the order under challenge requires interference.

6. In such view of the matter, sum of Rs.5,000/- directed to be paid by the appellant towards the interim maintenance is reduced to Rs.3,000/-.

7. Accordingly, the Civil Miscellaneous Appeal stands allowed in part. No Costs. Consequently, connected C.M.P.No.21776 of 2019 is closed.

8. Taking into consideration the fact that F.C.O.P.No.295 of 2017 is pending for more than two years, we direct the Family Court, Vellore, to dispose of the same within a period of four months from the date of receipt of a copy of this judgment along with the divorce petition filed by the appellant.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

ssm
To

1. The Judge,
Family Court, Vellore,
Vellore District.

+1 CC to Mr.B.Jawahar, Advocate sr 5114
+1 CC to Mr.PA.Sudesh Kumar, Advocate sr 5217.

C.M.A.No.3781 of 2019

GJ(CO)
SP(26/02/2020)