

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2020

CORAM

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

C.M.A.No.2654 of 2018
and C.M.P.No.20000 of 2018

D.Murali ... Appellant

Vs.

H.Sudha ... Respondent

Appeal filed under Section 19 of the Family Courts Act, 1984 against the fair and decretal order dated 12.02.2018 made in I.A.No.412 of 2015 in O.P.No.1211 of 2012 on the file of V Additional Family Court, Chennai.

For Appellant ... Mr.T.M.Karthikeyan
For Respondent ... No Appearance

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

This appeal has been preferred against the interim maintenance granted by the Family Court in I.A.No.412 of 2015, pending the petition filed for divorce by the appellant in O.P.No.1211 of 2012.

2.Heard the learned counsel for the appellant. Despite service of notice and the name of the counsel for the respondent having been printed in the cause list, none appeared for the respondent on the earlier occasion and even today.

3.Learned counsel appearing for the appellant submitted that the appellant is a tailor by profession, which he is not doing as of now. He is absolutely penniless. The order has been passed granting interim maintenance from the date of filing of the petition. The appellant is not in a position to pay the same. In fact, the appellant was ready with the main petition but in the year 2018, the interim maintenance has been ordered in the application filed in the year 2015 though the main petition is pending from the year 2012.

4. On the amount fixed by the Family Court, we do not find any reason to interfere with. If the respondent is living with the appellant as wife, he would have spent money for her. However, we find some force in the submission made by the learned counsel for the appellant insofar as the arrears is concerned. The appellant is not very rich and is not in a position to pay the arrears. The appellant, who is present before this Court today, also expressed his inability to pay the arrears.

5. In such view of the matter, the arrears payable till the month of February, 2020 is reduced to 50%. This amount will have to be paid within a period of eight weeks from the date of receipt of a copy of this judgment. The future interim maintenance will have to be paid on or before 7th of every succeeding English calendar month.

6. With the above modification, this Civil Miscellaneous Appeal is allowed in part. No costs. Consequently, connected miscellaneous petition is closed.

7. Taking into consideration the fact that O.P.No.1211 of 2012 is pending for nearly eight years, we direct the V Additional Family Court, Chennai, to dispose of the same within a period of six months from the date of receipt of a copy of this judgment.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

mmi
To

The V Additional Judge,
Family Court,
Chennai.

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C.M.A.No.2654 of 2018

GP(CO)
SP(19/05/2020)