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Crl. R.C.(MD)No.436 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 24.08.2020

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.436 of 2020

and

Crl.M.P.(MD)No.3821 of 2020

D.Packiamani

.. Petitioner

Vs.

Minor. P.Elakkiya

Through her mother

and next friend Ponkohila

.. Respondent

Prayer : This criminal revision case is filed under Section 19(4) of the Family Courts Act, 1984 r/w. Sections 397 and 401 of the Criminal Procedure Code, to call for the records pertaining to the order of the Family Court, Tirunelveli in M.C.No.55 of 2019, dated 06.01.2020 and set aside the same.

For Petitioner : Mr.J.Ashok

For Respondent : Mr.V.Sorimuthu

ORDER

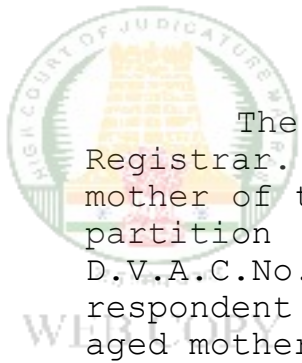
The petition has been filed to set aside the order passed in in M.C.No.55 of 2019, dated 06.01.2020, on the file of the Family Court, Tirunelveli .

2. The petitioner is the father of the respondent and the respondent is represented by her mother. The respondent filed a petition in M.C.No.55 of 2019 before the Family Court, Tirunelveli, seeking maintenance from her father. The Family Court, Tirunelveli, partly allowed the petition and fixed the maintenance as Rs.10,000/- per month. Against that order, the petitioner / father preferred this revision.

3. Brief substance of the petition in M.C.No.55 of 2019 is as follows:

The petitioner /minor child is in the custody of her mother. She is aged about 3 years and she has to be admitted in a Primary School. The respondent / father is a Government servant, working as a Village Administrative Officer. The petitioner's mother is working in the office of the Sub-Registrar. The petitioner is suffering to maintain her expenses. The father of the petitioner / respondent is liable to pay maintenance. The respondent is getting a salary of Rs.28,000/- and he is getting other income to the tune of Rs.50,000/- per month and an order of payment of Rs.20,000/- as maintenance is to be granted.

4. Brief substance of the counter in M.C.No.55 of 2019 is as follows:-



The petitioner's mother is working in the Office of the Sub-Registrar. She is earning more than Rs.50,000/- per month. The mother of the petitioner filed a suit in O.S.No.194 of 2019, seeking partition in the property and she has filed another petition in D.V.A.C.No. 16 of 2018, seeking maintenance. The salary of the respondent is wrongly mentioned. The respondent is maintaining his aged mother and the petition is to be dismissed.

5. One witness was examined and five documents were marked on the side of the petitioner. One witness was examined and two documents were marked on the side of the respondent.

6. The Family Court, after considering the evidence and documents fixed the maintenance as Rs.10,000/- per month. Against which, the father of the petitioner / respondent preferred this Criminal Revision on the following grounds:-

The salary of the petitioner is only Rs.29,846/- per month and awarding 1/3rd of the monthly salary as maintenance is excessive. The Family Court failed to consider that the mother of the respondent is also a Government servant, working in the Registration Department and prayed the order to be set aside.

7. The learned counsel for the petitioner submitted that the petitioner is ready to pay a sum of Rs.5,000/- per month as maintenance for the respondent.

8. On the side of the respondent, it is stated that the petitioner is working as a Village Administrative Officer and he is earning more than Rs.30,000/- per month and the petitioner is also having family properties and he is having other income sources. It is stated that still now no amount was paid by the petitioner towards maintenance for the respondent.

9. Heard the learned counsel on either side and perused the materials available on records.

10. It is seen that the mother of the respondent is working as a Government servant, but, this cannot be a ground for the petitioner to refuse payment of maintenance to his minor daughter. It is seen that the income of the petitioner is approximately Rs.30,000/- per month. It is stated that he has to maintain his aged mother.

11. In view of the above circumstances and considering the cost of living at present, this Court fixed the maintenance amount at Rs.7,500/- per month. The petitioner is directed to deposit the arrears of maintenance at the above said rate within a period of two months from the date of receipt of copy of this order. The petitioner is directed to pay the monthly maintenance amount on or



before fifth of every month towards maintenance to the respondent.

12. With the above direction, this Criminal Revision Case is partly allowed. Consequently connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ls

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The Judge, Family Court,
Tirunelveli.

Crl. R.C.(MD)No.436 of 2020
24.08.2020

AP/KK(31.08.2020) 3P 2C