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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.M.A. No.1051 of 2018

V.Manivannan ... Appellant/Respondent/Petitioner

vs

K.Selvi ... Respondent/Petitioner/Respondent

Prayer: Appeal filed under Section 19 of the Family Court Act against the order and decretal order dated 14.03.2018 made in I.A. No.1730 of 2016 in H.M.O.P. No.459 of 2014 on the file of the VI Additional Family Court, Chennai.

For Appellant :Mr.R.Ramesh

For Respondent :No appearance

JUDGMENT

[Judgment of this Court was delivered by T.RAJA, J.]

This appeal has been filed against the impugned interim order dated 14.03.2018 passed by the VI Additional Family Court, Chennai in I.A. No.1730 of 2016 in H.M.O.P. No.459 of 2014 directing the appellant husband to pay a sum of Rs.10,000/- to the respondent wife and Rs.5,000/- to the minor child towards interim maintenance from the date of the petition, namely, 01.03.2016 till the disposal of the main petition and also to pay a sum of Rs.25,000/- towards litigation expenses.

2.Learned counsel appearing for the appellant husband submitted that both the appellant and the respondent are B.Tech. Graduates; the appellant is working in Tata Consultancy Services; and the respondent has been working in a private concern. As there was a matrimonial dispute between them, the appellant has filed O.P. No.459 of 2014 under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 seeking dissolution of the



marriage, which was taken place on 18.10.2012 at Murugan Temple, Tiruttani, Thiruvallur District, raising various allegations, inter alia, the respondent was not willing to stay with him along with his family members and she has been demanding separate home. At one point of time, when she went to the Police Station with her Advocate, both the appellant and the respondent agreed for getting divorce on mutual consent under Section 13-B of the Hindu Marriage Act, for which, when the draft petition was made ready, due to some stringent conditions imposed by the respondent wife on the appellant, the same could not be proceeded with. Finally, when the appellant filed the above petition seeking divorce under Section 13(1)(i-a) of the Hindu Marriage Act, though the respondent wife filed a counter affidavit admitting the fact that she was working with Geojit Paribas and earning a sum of Rs.15,000/- per month, later, she took a contra stand in the affidavit filed by her in M.C. No.22 of 2020 stating that she is getting a meagre sum of Rs.6,000/- per month and she is not able to meet out the financial needs of the family expenses, educational expenses and the basic needs. Learned counsel appearing for the appellant further submitted that though the appellant has paid school tuition fees for his son, who is now 7 years old and studying in D.A.V. School, Velacherry, from the year 2017, the respondent wife refused to receive the same, by demanding more money and therefore, the appellant has stopped paying the tuition fees, but, even today, the appellant is ready to meet out the expenses including, uniform, books, medical expenses and tuition fees etc. Since the respondent wife has not disclosed about her employment and income as to where she is working and how much income she is getting in the petition filed by her in M.C. No.22 of 2020 seeking maintenance, the appellant husband is not able to get her pay slip.

3.Learned counsel appearing for the appellant, by producing the pay slip for August 2021, submitted that the appellant is working in TATA Consultancy Services and after deduction of Income Tax, Provident Fund, Professional Tax and Voluntary Provident Fund, he is getting net pay of Rs.74,771/- and further deduction of Housing Loan, which comes around Rs.22,000/-, he is getting only about Rs.40,000/- Since the respondent wife has come to the Court with un-cleaned hands by taking a double stand in the counter affidavit in the above O.P. and in the petition seeking maintenance, she is not entitled to get any interim maintenance, as the respondent, being an B.Tech. Graduate, could have earned sufficient salary to meet out the necessary expenses. In view of the heavy burden of expenses met out by the appellant, he is prepared to pay Rs.10,000/- per month to the



respondent wife towards maintenance, apart from paying tuition fees, medical expenses and other incidental expenses for his son as and when arises.

4. Heard the learned counsel appearing for the appellant. In spite of service of notice to the respondent, there is no representation on her behalf either through counsel or by herself.

5. A perusal of the counter affidavit filed by the respondent in the petition filed by the appellant in O.P. No.459 of 2014 seeking divorce under Section 13(1)(i-a) of the Hindu Marriage Act would show that the respondent was working with Geojit Paribas and earning Rs.15,000/- per month, whereas, in the M.C. No.22 of 2020 seeking maintenance filed by her, she has stated that she is earning a meagre sum of Rs.6,000/- per month, without disclosing about the name of the company, where she is working and whether she has resigned her earlier job or not. When the respondent filed the above petition seeking interim maintenance, she could have mentioned about the name of the concern/establishment, in which she is working and whether she has resigned from the earlier company or not, so as to enable the Court to find out the merits of the petition. As she has admitted in the counter affidavit that she is getting Rs.15,000/- per month from the Geojit Paribas and earning Rs.15,000/- per month, taking a contra stand in the above M.C. seeking maintenance stating that she is getting only a meagre sum of Rs.6,000/- is un-acceptable. Learned counsel appearing for the appellant submitted that since the respondent has not disclosed about her employment, the appellant is not able to get her pay slip.

6. Moreover, a perusal of the pay slip for August 2021 of the appellant shows that he is getting net pay of Rs.74,771/-, after deduction of Rs.3,540/- Rs.25,960, Rs.1,250/- and Rs.12,602/- towards Provident Fund, Voluntary Provident Fund, Professional Tax and Income Tax respectively. A perusal of statement of accounts filed by the appellant would also show that the appellant was getting a sum of around Rs.40,000/-, after deduction of Rs.22,000/- and odd towards housing loan.

7. In spite of service of notice to the respondent, she has not chosen to appear before this Court, which shows that she is not prepared to contest the case. Although we are not inclined to accept the submission made by the learned counsel appearing for the appellant stating his difficulty in paying the



maintenance, we are inclined to direct the appellant to pay only a sum of Rs.10,000/- to the respondent wife towards interim maintenance and the tuition fees directly to the Principal/Correspondent of D.A.V. School, Velachery or any other school, in which, the child is pursuing his studies. Accordingly, the appellant is directed to pay a sum of Rs.10,000/- to the respondent wife towards interim maintenance and the tuition fees directly to the Principal/Correspondent of D.A.V. School, Velachery or any other school. In the event of payment of such tuition fees made by the appellant, the Principal/Correspondent of the said School is permitted to receive the same, as he is the father of the child. The appellant is further directed to pay medical expenses and other incidental expenses of his son as and when arises.

8. Needless to mention that if any arrears of amount is payable by the appellant, he is directed to pay the same at the rate of Rs.10,000/- per month. Accordingly, the appeal stands partly allowed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

vga
To

The Judge,
VI Additional Family Court,
Chennai.

+1cc to Mr.R.Ramesh, Advocate Sr.60789

C.M.A. No.1051 of 2018

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srg 22/12/2021