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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2021

CORAM

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

C.M.A. Nos.1105 of 2018 and 3374 of 2019
C.M.P. Nos.9181 of 2018 & 19698 of 2019

S.Dhandapani ... Appellant in both cases

vs

Minor D.Riyasri
rep. by natural guardian and mother
S.Deepika ... Respondent in C.M.A.No.1105 of 2018

S.Deepika ... Respondent in C.M.A.No.3374 of 2019

Prayer in both the cases: Appeals filed under Section 19 of the Family Courts Act against the fair and decretal order dated 11.04.2017 passed in I.A. Nos.388 & 387 of 2016 in O.P. No.67 of 2016 on the file of the Principal Judge, Family Court at Coimbatore.

For Appellant in both cases : Mr.Micheal Visuvasam

For Respondents in both cases : Mr.D.Udayasuriyan

COMMON JUDGMENT

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

The appeals have been brought up by S.Dhandapani, the appellant herein challenging the impugned decretal order dated 11.04.2017 passed by the Principal Judge, Family Court, Coimbatore in I.A. Nos.388 & 387 of 2016 in O.P. No.67 of 2016, directing him to pay a sum of Rs.5,000/- and Rs.20,000/- per month to his wife and daughter respectively as interim maintenance from the date of filing the petitions.

2.Learned counsel appearing for the appellant submitted that after the marriage was solemnised on 20.08.2010 at Eswari Mahal Thirumana Mandapam, Solambedu Road, Thirumullaivoyal, Chennai in the presence of the well wishers, belonging to both the families, the respondent wife used to pick up quarrel with



the appellant for filthy and whimsy reasons. Therefore, the appellant husband has filed the above O.P. No.67 of 2016 seeking dissolution of marriage on the ground of cruelty made by the respondent. Although at the time of marriage, the appellant had served at M.Phasis/Hawlett Packard in a senior level position, US based Company and thereafter, he switched over to Robert Bosh, a German based Company, during the pendency of the divorce petition, the respondent wife moved two Interim Applications in I.A. Nos.387 and 388 of 2016 in O.P. No.67 of 2016 for payment of Rs.15,000/- per month towards interim maintenance and Rs.15,000/- towards litigation expenses and Rs.30,000/- per month towards interim maintenance and Rs.67,500/- towards yearly school fees respectively on the premise that the appellant has been drawing a sum of Rs.2,25,000/- per month. However, the learned Principal Judge, Family Court, Coimbatore, without considering the common counter affidavit filed by the appellant in both the I.A. Nos.387 and 388 of 2016 in O.P. No.67 of 2016, ignoring the vital fact that the respondent wife is working in Karur Vysya Bank and drawing a sum of Rs.34,022/- per month and without there being any affidavit of assets and liabilities filed by both the parties, as per the judgment passed by the Hon'ble Apex Court in the case of Rajnesh vs. Neha reported in 2021 (2) SCC 324, directed the appellant to pay a sum of Rs.5,000/- per month to the respondent wife towards interim maintenance; Rs.10,000/- towards litigation expenses; and Rs.20,000/- per month to the minor daughter towards interim maintenance from the date of the petition by partly allowing the petition filed by the respondent wife, which is untenable and unjustifiable. Learned counsel appearing for the appellant further submitted that a direction may be issued to both the parties to file their affidavit of assets and liabilities, since the matter is likely to be taken up on 16.12.2021.

3.Since both the parties have to file their affidavit of assets and liabilities before the Family Court, Coimbatore, as per the judgment passed by the Hon'ble Apex Court in the case of Rajnesh vs. Neha reported in 2021 (2) SCC 324 and the matter is likely to be heard by the Family Court, Coimbatore on 16.12.2021, without expressing our view on the merits of the matters, we are inclined to direct the parties to file their affidavit of assets and liabilities before the Family Court, Coimbatore. Accordingly, both the parties are directed to file their affidavit of assets and liabilities before the Family Court, Coimbatore, which shall take up the O.P. No.67 of 2016 and dispose of the same, on merits within a period of two months from the date of receipt of a copy of this order.

4.Mr.Micheal Visuvasam, learned counsel appearing for the appellant undertakes to pay the arrears of maintenance of four months to the respondent within a period of two weeks.



5. With the above observation and direction, the appeals stand disposed of. Consequently, C.M.P. Nos. 9181 of 2018 & 19698 of 2019 stand closed. No costs.

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Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

vga

To

1. The Principal Judge,
Family Court at Coimbatore.

2. The Section Officer,
V.R. Section,
High Court, Madras.

+2cc to Mr. J. Micheal Visuvasam, Advocate, S.R.No. 66179 & 66180

+2cc to Mr. S. Saravanan, Advocate, S.R.No. 66036 & 66037

C.M.A. Nos. 1105 of 2018 and 3374 of 2019
C.M.P. Nos. 9181 of 2018 & 19698 of 2019

SSV(CO)
SB(14/02/2022)