

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CRP(PD)No.1352 of 2019

and

CMP.No.8807 of 2019

Mr.Ranjith Viswambaran,
S/o.Viswambaran

... Petitioner / Respondent

Vs.

Mrs.K.G.Vineetha,
W/o.Mr.Ranjith Viswambaran

... Respondent / Petitioner

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and final order dated 22.11.2018 passed in I.A.No.150 of 2017 in HMOP No.636 of 2015 on the file of the Subordinate Judge, Tambaram, Kancheepuram District.

For Petitioner : M/s.Swaraj Associates

For Respondent : Mrs.A.Subadra

ORDER

(This case has been heard through video conference)

The revision petition has been filed by the petitioner in HMOP NO.636 of 2015 pending on the file of the learned Sub Judge at Tambaram.

2.The said HMOP No.636 of 2015 has been filed by the petitioner seeking divorce. The respondent herein had filed I.A.No.150 of 2017 seeking interim maintenance. She had sought a minimum sum of Rs.50,000/- every month towards interim maintenance for herself and her child and she had also sought a minimum amount of Rs.25,000/- towards litigation expenses.

3.The grievance raised by the learned counsel for the revision petitioner is that the Trial Court had directed a sum of Rs.20,000/- to be paid every month towards maintenance both for the respondent herein and also for the child and had also directed a sum of Rs.25,000/- to be paid as litigation expenses.

4.It is claimed that the said order was passed without actually hearing the learned counsel for the petitioner herein or examining the averments put by the petitioner herein.

5.I am informed that the revision petitioner herein has been directed to pay a sum of Rs.12,000/- every month as maintenance for the child in separate proceedings filed under Section 125 Cr.P.C.

6.It is the contention of the learned counsel for the Revision Petitioner/husband that the respondent/wife is employed and there is no requirement to pay any maintenance since she is financially sound. In this connection, the learned counsel placed reliance on the decision of a Division Bench of this Court reported in **CDJ 2018 MHC 4774 (Ranjith Viswambaran Vs. K.G.Vineetha)** wherein a Division Bench of this Court had stated that *“for determining the claim of maintenance, the Court is required to examine the resourcefulness, wherewithal or financial capacity of wife or husband as the case may be and it cannot be awarded mechanically without examining the financial capacity of the husband or the wife.”*

7.This observation of the Division Bench is relied on strongly by the learned counsel for the Revision Petitioner who repeatedly submitted that the respondent/wife is financially sound and that she is capable of maintaining herself.

However, evidence to that effect was not let in by the petitioner herein. That statement has not been tested in cross examination. One of the points to be considered is that though the wife is said to be employed, the obligation of every husband to maintain his wife commences from the date of marriage when the marital relationship commenced. Incidentally, if the wife is financially sound and if she can take care of the financial needs of the family and look after the family expenses, it would also have been to the advantage of the husband. But in the case on hand, the revision petitioner has refused to pay even a single rupee as maintenance necessitating such an application to be filed by the wife for maintenance.

8.By an earlier order of this Court dated 09.09.2020, the revision petitioner herein was directed to deposit a sum of Rs.2,00,000/- to the credit of HMOP.No.636 of 2015 on or before 15.10.2020 in two installments. Time limits for deposit of the said amount in two installments was also given in the said order.

9.I am informed that there is compliance of the said order.

10.The interim maintenance is not given to any third party but rather to the mother of his own child. After hearing the parties, and also after examining the citation placed by the learned counsel, my learned Predecessor had directed the petitioner herein to comply with the directions passed in I.A.No.150 of 2017, namely to pay the monthly maintenance at Rs.20,000/-.

11.I am not inclined to interfere with the said order.

12.If sense and sensibility prevails, the petitioner herein may participate in the trial proceedings and if he does so, by this time the trial itself would have been completed and final orders would have been passed with respect to the alimony to be paid to the respondent and the child.

13.Let the parties go back to the trial Court namely the Sub Court, Tambaram and since the Divorce Petition has been pending for the past 6 years, a direction is given to the learned Sub Judge to dispose of the same on or before 30.09.2021.

14.The obligation to pay maintenance at Rs.20,000/- is to continue and I fervently hope that the revision petitioner and the respondent would cooperate during the course of trial, to ensure it is completed in accordance with the time limit fixed by this Court.

15.A burden is therefore cast, particularly the revision petitioner who had filed the petition before the Sub Court at Tambaram to ensure that the matter comes to an end within the stipulated time period.

16.With the above directions, the Civil Revision Petition is disposed of. Consequently, the connected miscellaneous petition also stands closed. No order as to costs.

05.07.2021

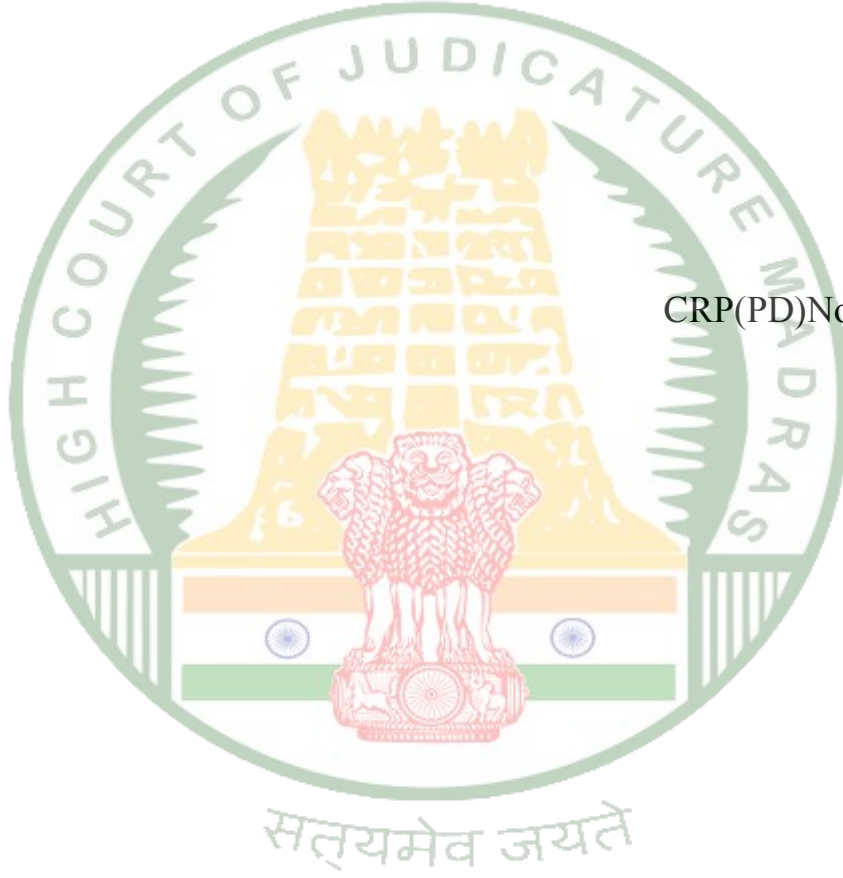
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To

1.The Sub Court, Tambaram.

C.V.KARTHIKEYAN, J.

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