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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.1283 of 2016

And

Crl.M.P.No.11470 of 2016

Prathaban

...Petitioner

Vs.

P.Kamalam @ Elizabeth

...Respondent

Prayer:

Petition filed under Section 397 and 401 of Cr.P.C., seeking to call for the entire records of the order in M.C.No.43 of 2011 dated 23.11.2015 passed by the Family Judge, Family Court, Salem and set aside the same.

For Petitioner : Mr.T.Karunakaran

For Respondent : Mr.P.Mani

O R D E R

This petition has been filed seeking to call for the entire records of the order in M.C.No.43 of 2011 dated 23.11.2015 passed by the learned Family Judge, Family Court, Salem and to set aside the same.

2.The case of the petitioner is that the respondent filed M.C.No.43 of 2011 before the Family Court, Salem, claiming maintenance of a sum of Rs.3,500/- per month and vide order dated 23.11.2015, the Family Court awarded a sum of Rs.2,500/- as future maintenance and a sum of Rs.500/- as past maintenance. Aggrieved by the same, the petitioner has filed this revision.

3.The learned counsel appearing for the petitioner submitted that already the respondent filed M.C.No.1 of 1977 before the Chief Judicial Magistrate, Krishnagiri and the said case was dismissed for default on 15.04.1977 and after a lapse of more



than 30 years, the respondent has filed M.C.No.43 of 2011 before the Family Court, Salem. He would further submit that the respondent had filed O.S.No.941 of 2011 before the learned Principal District Munsif, Salem, seeking to declare her as the legally wedded wife of the petitioner and the said suit was decreed in favour of the respondent. Hence, the Family Court awarded maintenance in favour of the respondent.

4.The learned counsel appearing for the petitioner further submitted that the petitioner filed A.S.No.11 of 2014 before the I Additional Subordinate Court, Salem, challenging the order passed in O.S.No.941 of 2011 and the lower Appellate Court upheld the order passed by the lower Court and challenging the same, the petitioner has filed S.A.No.571 of 2016 before this Court and the same is pending. He would further submit that this Court in the interest of justice may tag this revision along with S.A.No.571 of 2016.

5.The learned counsel appearing for the respondent did not dispute the facts submitted by the learned counsel appearing for the petitioner. He submitted that till date not even a single pie has been deposited before the lower Court. Hence, this Court may dispose of this revision by directing the petitioner to deposit 50% of the arrears amount to the credit of S.A.No.571 of 2016 pending before this Court. In the event of the petitioner succeeding the second appeal, the petitioner may be permitted to withdraw the amount and in the event of the respondent succeeding the second appeal, the respondent may be permitted to withdraw the amount.

6.Heard the submissions made on either side and perused the materials placed on record.

7.The facts in the present case is not disputed. Maintenance was awarded to the respondent on the sole ground that O.S.No.941 of 2011 filed by the respondent before the learned Principal District Munsif, Salem, seeking to declare her as the legally wedded wife of the petitioner was decreed in her favour. The said decree is pending adjudication in S.A.No.571 of 2016 before this Court.

8.In view of the above, this Court directs the petitioner to deposit 50% of the entire arrears amount awarded towards maintenance in favour of the respondent, by the lower Court to the credit of S.A.No.571 of 2016 which is pending before this Court, within a period of four weeks from the date of receipt of a copy of this order. Subject to the result of the second appeal, the parties will be permitted to withdraw the amount.



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9. With the above observation, this revision is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Family Judge, Family Court, Salem.

2. The Principal District Munsif, Salem.

+1 CC to M/s. T. Karunakaran, Advocate, Sr.No. 39282.

+1 CC to M/s. P. Mani, Advocate, Sr.No. 38747.

Crl.R.C.No.1283 of 2016  
And  
Crl.M.P.No.11470 of 2016

RLD (CO)  
LS (13/09/2021)