

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(NPD)No.1489 of 2021

(Through Video Conference)

Dhushyanthi

.. Petitioner

Versus

Jayavel

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India pleased to call for the entire records connected with the order dated 15.11.2017 in H.M.O.P No.2508 of 2013 passed by the learned VI Additional Family Judge, Chennai and set aside the same so far as the said order has denied permanent alimony to the petitioner is illegal and direct the respondent to pay the petitioner permanent alimony in accordance with law.

For Petitioner : Mr.M. Radhakrishnan

For Respondent : Mr.Pandiyan

For Mr.T.Padmanabhan

O R D E R

This Civil Revision Petition is filed to call for the records connected with H.M.O.P.No.2508 of 2013 and to set aside the order dated 15.11.2017 passed by the VI Additional Family Court, Chennai which denied permanent alimony to the petitioner.

2. The learned counsel for the petitioner submitted that the husband/ respondent filed a petition for divorce under Section 13(1)(ia) of the Hindu Marriage Act. During the pendency of the H.M.O.P.No.2508 of 2013, I.A.No.300 of 2015 was filed seeking interim maintenance.

3. The learned VI Additional Family Judge, Chennai directed the respondent to pay a sum of Rs.5,000/- per month to the petitioner / wife as interim maintenance and Rs.3,000/- per month to the minor child. Since the respondent has not paid the interim maintenance ordered by the Court, the main divorce petition came to be dismissed on 15.11.2017. The petitioner filed a memo on 13.12.2017 seeking a direction to pass order of permanent alimony in H.M.O.P.No.2508 of 2013. No order was passed in the same and in such circumstances, the present petition has been filed seeking to set aside the order dated 15.11.2011 and for a direction ordering permanent alimony.

4. The learned counsel for the petitioner submitted that grant of permanent alimony is must and necessary for maintaining the petitioner and her minor child.

5. The learned counsel for the respondent opposed this petition.

6. Considered the rival submissions and perused the records.

7. Section 25 of the Hindu Marriage Act deals with permanent alimony and maintenance. It provides for ordering permanent alimony / maintenance at

the time of passing any decree or at any time subsequent thereto, on an application made to it for the purpose by either the wife or the husband, as the case may be, order that the respondent shall pay to the applicant for her or his maintenance and support such gross sum or such monthly or periodical sum for a term not exceeding the life of the applicant.

8. However, in the judgment made in ***Badri Prasad vs. Smt.Urmila Mahobiya*** reported in **AIR (2001) MP 106**, it has been held that the relief of permanent alimony cannot be given where the main petition for relief under the Act such as divorce, judicial separation, etc., is dismissed or withdrawn.

9. The learned counsel for the petitioner relied on the judgment made in ***Chandrika vs. M.Vijayakumar*** reported in **1996 (2) MLJ 439**, where the proposition was laid that maintenance/ permanent alimony can be ordered even without any application. There is no realm over the fact that maintenance / permanent alimony can be ordered at the time of conclusion of matrimonial proceedings, even without an application. In the case relied upon by the learned counsel for the petitioner, the decree of divorce was granted. However, as decided in the judgment reported in **AIR (2001) MP 106** (stated supra), when divorce proceedings is dismissed, permanent alimony cannot be granted.

G.CHANDRASEKHARAN, J.,

sts

10. In this case also, divorce petition was dismissed. Therefore, this Court finds that the claim of the learned counsel for the petitioner that the order of the learned VI Additional Family Judge, Chennai dated 15.11.2017 is to be set aside and a direction to the learned VI Additional Family Judge, Chennai to be issued for ordering permanent alimony cannot be entertained. In this view of the matter, the present **Civil Revision Petition stands Dismissed**. No costs.

06.09.2021

Index: Yes/ No
Speaking Order / Non-Speaking Order
sts/nti

To:
The VI Additional Family Judge,
Chennai.

Order made in

C.R.P.(NPD)No.1489 of 2021

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