

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P.(PD)Nos.1664 & 1770 of 2021
and C.M.P.Nos.13667 & 12902 of 2021
(Through Video Conference)

R.Sujatha

.. Petitioner in C.R.P.(PD)
No.1664 of 2021 &
Respondent in C.R.P.(PD)
No.1770 of 2021

Versus

B.Sujithkumar

.. Respondent in C.R.P.(PD)
No.1664 of 2021 &
Petitioner in C.R.P.(PD)
No.1770 of 2021

PRAYER in C.R.P.(PD) No.1664 of 2021: Civil Revision Petition filed under Article 227 of the Constitution of India to modify the order passed in I.A.No.222 of 2016 in H.M.O.P.No.134 of 2013 by the Principal Subordinate Judge at Kancheepuram dated 17.12.2020 and enhance the interim maintenance.

PRAYER in C.R.P.(PD) No.1770 of 2021: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 17.12.2020 in I.A.No.222 of 2016 in H.M.O.P.No.134 of 2013 passed by the Principal Subordinate Judge at Kancheepuram.

For Petitioner in C.R.P.(PD) : Mr.S.Jayakumar
No.1664 of 2021 &
Respondent in C.R.P.(PD)
No.1770 of 2021

Respondent in C.R.P.(PD) : Mr.R.Subburaj
No.1664 of 2021 &
Petitioner in C.R.P.(PD)
No.1770 of 2021

COMMON ORDER

Since the issue involved in both the Civil Revision Petitions are one and the same, they are disposed of by this common order.

2. The Civil Revision Petition in C.R.P.(PD) No.1770 of 2021 is filed challenging the order passed by the learned Principal Subordinate Judge, Kancheepuram in I.A.No.222 of 2016 in H.M.O.P.No.134 of 2013 and Civil Revision Petition in C.R.P.(PD) No.1664 of 2021 is filed seeking to modify the order passed in I.A.No.222 of 2016 in H.M.O.P.No.134 of 2013 by the learned Principal Subordinate Judge at Kancheepuram, dated 17.12.2020 and to enhance the interim maintenance.

3. The wife, as the petitioner in I.A.No.222 of 2016 in H.M.O.P.No.134 of 2013 has filed the petition claiming interim maintenance under Section 24 of the Hindu Marriage Act, seeking for a direction to the husband to pay a sum of Rs.25,000/- per month for maintaining herself and her minor child. This petition was contested by the husband and on considering the rival submissions, the learned Principal Subordinate Judge, Kanchipuram directed the husband to pay Rs.10,000/- (Rupees Ten Thousand only) per month towards interim maintenance to the wife and the minor child and Rs.10,000/- towards the litigation expenses. It is further ordered that the interim maintenance amount should be paid before 10th of every English Calendar month.

4. The wife has preferred the revision in C.R.P.(PD)No.1664 of 2021 stating that the order made in I.A.No.222 of 2016 in H.M.O.P.No.134 of 2013 is silent, about the date of operation of the order, as to, whether it is from the date of petition or from the date of order. It is further submitted that the learned Principal Subordinate Judge, Kancheepuram should have ordered the maintenance amount to be paid from the date of filing of the petition. Since there is no specific and clear direction in this regard, the learned counsel prayed

that the maintenance should be ordered to be paid from the date of filing of the maintenance petition.

5. The husband filed C.R.P.(PD)No.1770 of 2021 challenging the quantum of maintenance ordered. Learned counsel appearing for the husband submitted that as per the judgment made in the case of **Rajnish Vs. Neha and others** reported in (2021) 2 SCC 324 that in maintenance proceedings, the petitioner should file an affidavit of disclosure of assets and liabilities. The respondent may submit a reply along with an affidavit of disclosure and based on these submissions, maintenance has to be fixed. He further submitted that in the case before hand, the wife has not produced any affidavit of disclosure of assets and liabilities. One more submission is that the husband is a cancer patient and he earns only Rs.30,000/- per month. This amount is not sufficient to meet his personal and medical expenses and also to take care of his aged parents. Therefore, he prayed for setting aside the order passed in I.A.No.222 of 2016 in H.M.O.P.No.134 of 2013.

6. Considered the rival submissions and perused the records.

7. Perusal of the order of the learned Principal Subordinate Judge, Kanchipuram shows that both the parties have not produced any oral and documentary evidence before the Court. The judgment reported in **(2021) 2 SCC 324** had been delivered only on 04.11.2020. The order in I.A.No.222 of 2016 in H.M.O.P.No.134 of 2013 was passed on 17.12.2020. Even then, both the parties have not taken any steps to produce the assets and liabilities statement before the Court below, to help the Court in arriving at an interim maintenance. Be that as it may, it is admitted by the learned counsel appearing for the husband that the husband is earning Rs.30,000/- per month. The wife and minor child was awarded only R.10,000/- as interim maintenance. In the present economic scenario, where the prices are reaching sky high, this amount is just enough to meet their bare necessities. Therefore, this Court finds no reason to interfere with the quantum fixed by the learned Principal Subordinate Judge, Kanchipuram.

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8. So far as the date of commencement of interim maintenance, it is a settled proposition that what ever maintenance be, either interim or final, it should be paid from the date of the petition.

G.CHANDRASEKHARAN, J.,

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9. Finally, a submission was made by the learned counsel for the husband that the wife is earning more than him. If he is able to prove that his wife is earning more than him, he is at liberty to move the Court below with an application to modify the maintenance amount ordered. Accordingly, this Court directs that the interim maintenance amount ordered in I.A.No.222 of 2016 in H.M.O.P.No.134 of 2013 on 17.12.2020 should be paid from the date of the petition and there is no modification of the quantum of maintenance ordered at Rs.10,000 per month. Accordingly, the Civil Revision Petitions stand Disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

01.09.2021

Index: Yes/ No

Speaking Order / Non-Speaking Order
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To:

The Principal Subordinate Judge,
Kanchipuram.

Common Order made in
C.R.P.(PD)Nos.1664 & 1770 of 2021