

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.Nos.378 of 2018 & 1963 of 2017
and CMP.No.2021 of 2018

CRP.No.378 of 2018

B.Gajendran

..Petitioner

Vs.

G.Adhilakshmi

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 29.04.2017 in IA.No.610 of 2015 in OP.No.900 of 2012 on the file of the III Additional Family Court(now VII Addl. Family Court), Chennai.

For Petitioner : Mr.A.K.Sriram
for Mr.M.Mohammed Shafi

For Respondent : Mr.S.Madhusudhanan

CRP.No.1963 of 2017

G.Adhilakshmi

..Petitioner

Vs.

B.Gajendran

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order passed in IA.No.610 of 2015 in OP.No.900 of 2012 dated 29.04.2017 on the file of the learned III Additional Family Judge at Chennai and to direct the

respondent to pay the entire sum of Rs.2,23,000/- towards the payment of school fees and allow the civil revision petition.

For Petitioner : Mr.S.Madhusudanan

For Respondent : Mr.A.K.Sriram
for Mr.M.Mohammed Shafi

COMMON ORDER

These Civil Revision Petitions are filed against the fair and decretal order dated 29.04.2017 in IA.No.610 of 2015 in OP.No.900 of 2012 on the file of the III Additional Family Court(now VII Addl. Family Court), Chennai; and against the fair and decretal order passed in IA.No.610 of 2015 in OP.No.900 of 2012 dated 29.04.2017 on the file of the learned III Additional Family Judge at Chennai, thereby allowed the petition and directed the petitioner/ husband to pay a sum of Rs.1,00,000/- for the purpose of school fees to his son Prannav Khanth.

2. Both the civil revision petitions are preferred by the husband as well as the wife thereby challenging the order passed by the court below directing the husband to pay a sum of Rs.1,00,000/- towards school fees which was already paid by the wife. The wife also filed other civil revision petition for enhancement of the school fees ordered by the court below to the tune of Rs.2,23,000/- Both the

petitioner in the civil revision petitions are husband and wife. They got married on 27.08.2004 in accordance with their rites and rituals. It was an arranged marriage. Due to their wedlock, they gave birth to son Prannav Khanth. Due to misunderstanding between them, they got separated and lead to family dispute. The husband filed petition for divorce as against the wife on the ground of cruelty. The husband also filed petition for seeking custody of the minor child. While pending both the petitions before the Family Court, the wife and minor son filed maintenance case in MC.No.166 of 2013 on the file of the III Family Court, Chennai seeking maintenance of Rs.53,000/- as monthly maintenance. By order dated 24.09.2013, it was allowed and the husband was directed to pay a sum of Rs.10,000/- per month as maintenance to the wife and a sum of Rs.5,000/- per month towards maintenance to the minor son. While being so, the wife paid school fees for the academic year 2014-2015 and 2015-2016 for her minor son. Therefore, she filed petition in IA.No.610 of 2015 in the divorce petition seeking school fees which was already paid by her.

3. In the meanwhile, the wife also filed petition for enhancement of maintenance in MP.No.137 of 2016 and the court below allowed the same and directed the husband to pay a sum of Rs.50,000/- to the wife and the minor son from the date of petition

towards maintenance and the school fees. Aggrieved by the same, the husband filed criminal appeal and the appellate court set aside the maintenance order and remanded back the same for fresh consideration. Again, the Family Court considered afresh and ordered maintenance at Rs.70,000/- payable by the husband towards monthly maintenance and the school fees. Aggrieved by the same, the husband preferred revision before this Court and the same was dismissed. Challenging the said order, the husband preferred Special Leave Petition before the Hon'ble Supreme Court of India in SLP.No.4220 of 2019 and also filed petition to dispense with the production of the original order of this Court passed in Crl.RC. In the said petition, the Hon'ble Supreme Court of India ordered that the husband shall pay a sum of Rs.50,000/- towards maintenance and the school fees from the date of the petition. Accordingly, the husband so far paid a sum of Rs.18,35,000/-. Even till today, he is in arrear of nearly Rs.6,00,000/-. Whereas the learned counsel for the wife submitted that so far he is in arrear of Rs.34,00,000/-.

4. The only contention raised by the learned counsel for the husband is that when the Family Court ordered a sum of Rs.70,000/- towards maintenance and the school fees for the minor son, the wife cannot claim again towards school fees separately.

5. Per contra, the learned counsel for the wife submitted that she filed petition claiming school fees which was paid for the academic year 2014-2015 and 2015-2016, while he was studying 4th and 5th standard. The said interim application was filed on 28.08.2015 and the same was ordered only on 29.04.2017. Whereas the wife subsequently filed petition for enhancement of maintenance in MP.No.137 of 2016, in which the court below enhanced the monthly maintenance and ordered a sum of Rs.70,000/- towards maintenance as well as school fees for the subsequent years. Therefore, both are separate and also prayed for enhancement of the school fees as claimed by the wife to the tune of Rs.2,23,000/-

6. It is seen that the wife filed petition for school fees which she already paid for the academic year 2014-2015 and 2015-2016 for the minor son school fees. As rightly pointed out by the learned counsel for the wife, subsequently she filed petition in MP.No.137 of 2016 for enhancement of maintenance in the maintenance case. Therefore, the court below rightly ordered school fees which was already paid by the wife towards school fees of their minor son. Therefore, this Court finds no infirmity or illegality in the order passed by the court below. However, this Court finds no ground to enhance the school fees which was ordered by the court below.

7. In fine, both the civil revision petitions are dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

22.06.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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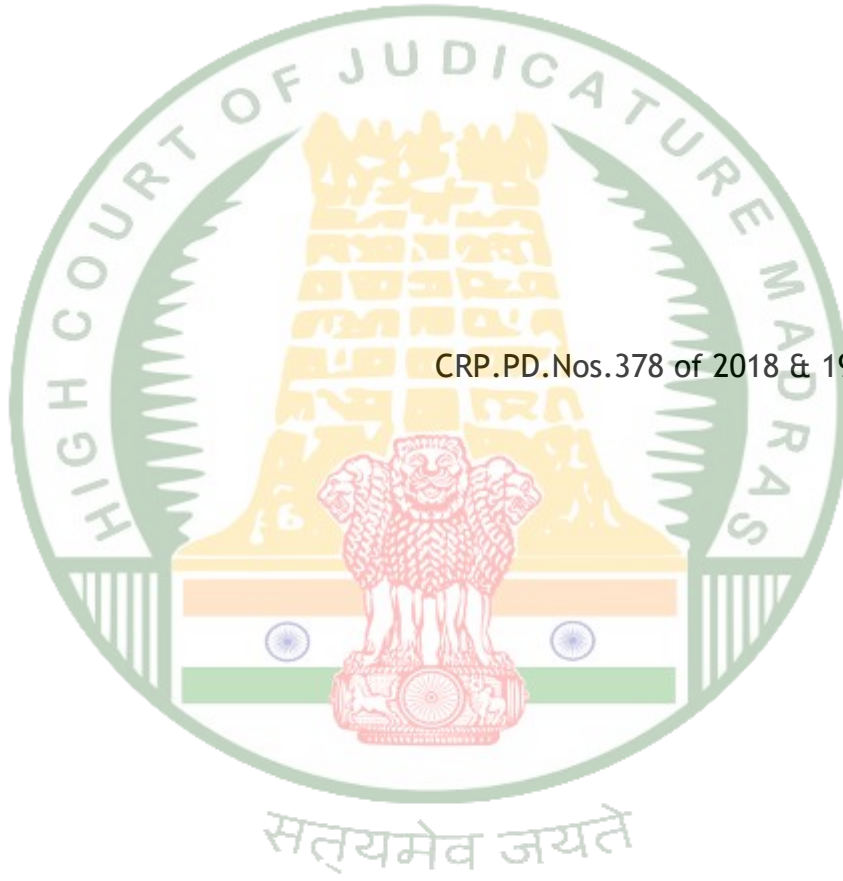
The III Additional Judge, Family Court,
Chennai



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G.K.ILANTHIRAIYAN,J.

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