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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.M.A.No.2278 of 2021
and
CMP.No.12671 of 2021

R.Suresh Kumar

...Appellant/Petitioner

-vs-

Sovan

...Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 19 (1) of the Family Court Act, 1984, against the Fair and decreetal order dated 02.02.2021 passed in I.A.No.1/2019 in HMOP.No.584/2018 by the learned Additional Principal Family Court Judge, Coimbatore.

For Appellant : Mr.V.Pavel

For Respondent : ...

JUDGMENT

(Judgment of the Court was pronounced by T.RAJA, J.)

This Civil Miscellaneous Appeal has been preferred against the fair and decreetal order dated 02.02.2021 passed in I.A.No.1/2019 in HMOP.No.584/2018 by the learned Additional Principal Family Court Judge, Coimbatore.

2.Learned Counsel appearing for the appellant challenging the correctness of the order impugned in this appeal pleaded that when the appellant got married with the respondent on 23.02.2002 after the demise of his first wife who died due to illness, there was a promise made by her that she would take care of the son of the appellant from the 1st wife and also his sickly mother. But later on, she has failed to keep up the promise made to him. When she started showing step motherly



attitude towards the child and his mother, her behaviour and conduct had caused immense untold cruelty. Therefore, the appellant filed HMOP.No.584/2018 under Section 13(1)(i-a) of the Hindu Marriage Act, 1955, before the Additional Principal Family Court, Coimbatore, seeking dissolution of the marriage on the ground of cruelty. During the pendency of the said Original Petition, the respondent wife has moved I.A.No.1/2019 for monthly maintenance making false averments that the appellant has been running an electrical shop and earning a huge income of Rs.5,00,000/- per month, that was not even substantiated. Again, she made yet another false allegation that the appellant has been receiving rental income from his properties. The learned Family Court Judge, without receiving any oral and documentary evidence ordered the appellant to pay a sum of Rs.15,000/- which is higher and unacceptable as the appellant is a physically challenged and left with any source of income.

3.We are unable to find any merits on the submissions of the learned Counsel for the appellant. The reason being that when the respondent has moved I.A.No.1/2019 before the Family Court below, she has pleaded therein that the appellant is running an electrical shop by which he is receiving a sum of Rs.5,00,000/- per month. More over she also pleaded that the appellant is deriving a rental income of Rs.5,00,000/- from his immovable properties. In support thereof, Ex.P.1 a series of two printouts of photographs showing his shop with Name Board M.S.Electricals was produced. Again Ex.P.2 a Visiting Card of the appellant showing his name as R.Suresh Kumar with Phone Numbers was also produced before the Family Court. But curiously enough, the appellant in his counter affidavit has not specifically denied about the closure of electrical shop with sufficient evidence and also about the denial of rental income although he has made some general denial. Therefore, there is no any specific denial of the said averments made by the respondent-wife by producing enough evidence to show that his shop has been shut down or wound up. Besides, the respondent has produced Ex.R.1 a print out showing alleged Trading, Profit and Loss Account of M.S.Electricals, for the year ending 31st March 2019 whereas the appellant has not produced any contra evidence. Hence, the learned Family Court, accepting her case that the appellant is running an Electrical Shop and earning substantial sum and also getting rental income from his immovable properties based on Ex.P.1 and Ex.P.2, ordered only a meagre sum of Rs.15,000/- per month towards interim maintenance. Therefore, when a sum of Rs.15,000/- has been ordered in spite of the fact that there was an allegation that the appellant has been receiving Rs.10,00,000/- per month, we are unable to find any merit in the present Appeal.



4. In the result, the Civil Miscellaneous Appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS-VI)

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Sub Assistant Registrar

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To

The Additional Principal Family Judge,
Coimbatore.

C.M.A.No.2278/2021

KSM(CO)
RGA(16/12/2021)