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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P.No.2340 of 2021
and
C.M.P.No.17712 of 2021

Vinod

...Petitioner

Vs

K.Priyadharshini

...Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the Judgment and decree dated 07.08.2021 in I.A.No.1 of 2021 in H.M.O.P.No.356 of 2019 on the file of Principal Subordinate Judge, Kanchipuram and to dismiss the same as illegal, unjust and contrary to law.

For Petitioner : Mr.V.Prakash Babu

O R D E R

This Petition is filed challenging the order passed in I.A.No.1 of 2021 in H.M.O.P.No.356 of 2019 on the file of Principal Subordinate Judge, Kanchipuram.

2.The Learned Counsel for the Petitioner submitted that the Petitioner filed divorce Petition under Section 13(1)(i-a) of Hindu Marriage Act, 1955 seeking divorce from the Respondent. The Respondent filed I.A.No.1 of 2021 under Section 24 of the Hindu Marriage Act seeking interim maintenance of Rs.50,000/- per month and Rs.20,000/- towards litigation expenses. This Petition was contested by the Petitioner on the ground that the Respondent is a B.Com., M.B.A., graduate working in a private company and she is also earning Rs.10,000/- per month. It is also submitted by the Petitioner that the Petitioner has borrowed loans of Rs.15,00,000/- and Rs.9,00,000/- towards purchase of the house and the loan amounts outstanding are Rs.7,00,000/- and Rs.9,00,000/-. Petitioner is paying Rs.11,000/- each towards loan amounts as monthly installments. Saying these reasons, the Petitioner opposed the Petition. Considering the rival submissions, the Learned Principal



Subordinate Judge, Kanchipuram ordered the Petitioner to pay a sum of Rs.10,000/- per month as interim maintenance and a sum of Rs.10,000/- towards litigation expenses. Against the said order, this Civil Revision Petition is preferred.

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3. Considered the submissions of the Learned Counsel for the Petitioner and perused the records.

4. It is seen from the order of the Learned Principal Subordinate Judge, Kanchipuram that the Petitioner has produced income tax returns and the Respondent has not produced any documents to support her contention that the Petitioner owns house, runs business in the name and style of 'Galaxy mobile sales and service centre', doing online commodity trading and getting rental income and agricultural income and also doing finance business.

5. Though it is claimed by the Respondent that the Petitioner is earning Rs.3,50,000/- per month, no documents showing the monthly earning, has been produced before the trial Court. However, the Learned Principal Subordinate Judge, Kanchipuram, on going through the counter affidavit of the Petitioner and also his income tax returns and banking transactions, came to the conclusion that ordering the Petitioner to pay a sum of Rs.10,000/- as interim maintenance is just and reasonable. Therefore, the Learned Principal Subordinate Judge, Kanchipuram directed the Petitioner to pay a sum of Rs.10,000/- towards interim maintenance and Rs.10,000/- towards litigation expenses.

6. The Learned Counsel for the Petitioner submitted that the Learned Principal Subordinate Judge, Kanchipuram has wrongly construed the balance loan amount as the balance amount available in the account of the Petitioner. Unfortunately, neither the income returns nor the bank passbook has been marked as exhibit during the enquiry. In the absence of these documents, this Court is not able to appreciate the contentions of the Learned Counsel for the Petitioner.

7. Be that as it may, it is clear from the counter affidavit filed by the Petitioner, that he has availed two loans one for Rs.15,00,000/- and the other one for Rs.9,00,000/-. He has also admitted that he is paying monthly installment at Rs.11,000/- each towards these loan amounts. It is not in dispute that he is running business in the name and style of 'Galaxy mobile sales and service centre'. If the Petitioner is able to raise loan to the tune of Rs.24,00,000/- and has capacity to pay Rs.22,000/- per month towards monthly installment, this Court is of the considered view that he can, with this business income, pay a sum of Rs.10,000/- per month as interim maintenance to the



Respondent. In the present economic scenerio and living conditions of both the parties, a minimum sum of Rs.10,000/- per month is absolutely necessary for meeting essential requirements like food, dress, shelter and medical expenses of the Respondent.

8.In this view of the matter, this Court finds no reason to interfere with the order of the Learned Principal Subordinate Judge, Kanchipuram passed in I.A.No.1 of 2021, ordering the Petitioner to pay a sum of Rs.10,000/- per month as interim maintenance and Rs.10,000/- towards litigation expenses. Hence, the order of the Learned Principal Subordinate Judge, Kanchipuram is confirmed.

9.Resultantly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

The Principal Subordinate Judge,
Kanchipuram.

C.R.P.No.2340 of 2021
and
C.M.P.No.17712 of 2021

KSM(CO)
RGA(22/11/2021)