



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 28.10.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.3155 of 2021
and C.M.P.Nos.17884 & 17885 of 2021

S.Shivakumar ... Appellant/Petitioner

-vs-

S.Srividya ... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal has been filed under Section 19 of the Famil Court Act read with Section 28 of the Hindu Marriage Act, to set aside the fair and decreetal order passed by the IV Additional Family Judge at Chennai in I.A.No.5867/2018 in H.M.O.P.No.2136 of 2017 dated 13.09.2021.

For appellant: Mr.S.Veeraraghavan

JUDGMENT

(Order of the Court was made by K.KALYANASUNDARAM, J.,)

This Civil Miscellaneous Appeal is directed against the fair and decreetal order passed by the IV Additional Family Judge at Chennai in I.A.No.5867/2018 in H.M.O.P.No.2136 of 2017 dated 13.09.2021.

2.The respondent is the wife of the appellant, she filed O.P.No.2465 of 2016 before the Family Court, Chennai, for divorce under Section 13(1)(ia) of the Hindu Marriage Act, 1955. After two years, the appellant field an O.P.No.2136 of 2018 under Section 9 of the Hindu Marriage Act, 1956, for restitution of conjugal rights. It appears that pending original petitions, the respondent/wife filed a petition under Section 24 of the Act, seeking interim maintenance and it is also ordered. Thereafter, the appellant has filed an application seeking visitation rights and that was also granted. Alleging that the respondent has not obeyed the order passed in I.A.No.1422 of



2017, the appellant has filed a Contempt Petition in I.A.No.4493 of 2018 and the same was dismissed on 13.02.2018.

3.The present petition was filed under Section 28 of the Act for custody of the minor children. The Trial Court, taking note of the fact that the petitioner himself has admitted that he used to take liquor and also considering the allegations made by the respondent that she and her children were physically assaulted by the appellant, rejected the petition filed by the appellant for custody of the children.

4.We have gone through the entire records and we do not find any reason to interfere with the order dated 13.09.2021 passed in I.A.No.5867/2018 in H.M.O.P.No.2136 of 2017 by the Family Court, Chennai.

5.In that view, order of the Trial Court dated dated 13.09.2021 in I.A.No.5867/2018 in H.M.O.P.No.2136 of 2017 is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

The IV Additional Principal Judge,
The IV Additional Family Court,
Chennai.

Copy to

The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.S.Veera Raghavan, Advocate Sr.56104

C.M.A.No.3155 of 2021

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srg 02/12/2021