



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

C.M.A.No.3016 of 2021
and C.M.P. No.17205 of 2021

N.Ravi

... Appellant

VS

K.Bhuvaneswari @ Mahalakshmi

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 19 of the Family Courts Act, 1984 against the fair and decretal order dated 24.09.2020 in I.A. No.3174 of 2017 in O.P. No.407 of 2015 passed by the II Additional Family Court, Chennai.

For Appellant : Mr.S.Ruban Prabu

JUDGMENT

[Judgment of this Court was delivered by T.RAJA, J.]

This appeal has been directed against the impugned interim maintenance directing the appellant husband to pay a sum of Rs.9,000/- to the respondent wife from the date of the petition, namely, 13.11.2017.

2.Learned counsel appearing for the appellant husband submitted that when the appellant has filed an Original Petition in O.P. No.407 of 2014 under Section 13(1)(i-b) of the Hindu Marriage Act 1955 seeking a decree for dissolution of marriage on the ground of desertion, during the pendency of the petition, the respondent wife has moved an application in I.A. No.3174 of 2017 in O.P. No.407 of 2014 claiming a huge sum of Rs.20,000/- per month towards the interim maintenance from the date of petition till the disposal of the divorce petition and also litigation expenses of Rs.25,000/- on the ground that the appellant has been running 2 fancy shops and newspaper shop at Mahabalipuram and earning Rs.45,000/- per



month. But the fact remains would speak clearly that the appellant is drawing only a consolidated pay of Rs.7,500/-, for which, the appellant has also filed a salary slip issued by the Golden Shopping Centre clearly showing that he has been getting a sum of Rs.7,500/- per month. Ignoring this fact, the Family Court has directed the appellant to pay a sum of Rs.9,000/- per month, which is untenable and unjustifiable. Therefore, the impugned order is liable to be interfered with.

3. We are unable to find any justification on the part of the appellant for the double stand taken by him in the counter affidavit filed by him before the Family Court and in the salary certificate dated 20.11.2015, which are extracted as under:

'8.... in fact this respondent is doing small business by engaging in small petty shop at Mahabalipuram through which he has been deriving income for the livelihood of this respondent'

Whereas the Salary Certificate says as follows:

'Presently he is drawing salary of consolidated pay Rs.7,500/- (Seven Thousand Five Hundred only) per month.'

4. A careful perusal of the averments made by the appellant in his counter affidavit shows that he is doing small business by engaging in small petty shop at Mahabalipuram through which he has been eking out his livelihood. Curiously, he has not even stated as to how much money he is getting from the above shop. Secondly, the income certificate issued by Golden Shopping Centre dated 20.11.2015 shows that he has been drawing consolidated pay of Rs.7,500/-. The same are not only doubtful, but, also un-acceptable for the simple reason that when the appellant comes to the Court stating that he is working as an Employee, he could not have taken a double stand, namely, one in the counter affidavit stating that he has been doing small business by running small petty shop at Mahabalipuram and in the Salary Certificate filed by him stating that he is drawing salary of consolidated pay of Rs.7,500/- (Seven thousand five hundred only) per month.

5. When we posed a question to the counsel for the appellant as to the possibility of filing of an affidavit before this Court stating that the appellant is not doing any business by running petty shop, he is not able to accept to do so. Since the appellant has taken a double stand in the counter affidavit filed by him before the Family Court stating that he has been running petty small shop at Mahabalipuram and not even mentioning the monthly income derived therefrom and in the salary certificate filed by him stating that he is drawing salary of consolidated pay Rs.7,500/-, we are able to



see that he has brought to this Court false case with uncleaned hands. Hence, this appeal stands dismissed. Consequently, C.M.P. No.17205 of 2021 is closed. No costs.

WEB COPY

Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

vga

To

1.The II Additional Family Court,
Chennai.

2.The Section Officer,
V.R. Section,
High Court, Madras.

C.M.A.No.3016 of 2021
and C.M.P. No.17205 of 2021

SMI (CO)
PR (07/12/2021)