

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.2212 of 2020
and C.M.P. No.13920 of 2020

K.Vahap

...

Petitioner /
Defendant

versus

1.V.Sharmila
2.Thamen
3.Rehan

...

Respondents /
Plaintiffs

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the order passed on 03.02.2020 made in I.A.No.2 of 2019 in O.S.No.86 of 2018 on the file of the VI Additional Family Court, Chennai.

For Petitioner

: Mr.D.Ajith Kumar

For Respondent No.1

: M/s.S.Rajeswari Karthikeyan

ORDER

This Civil Revision Petition is filed to set aside the order passed in I.A.No.2 of 2019 in O.S.No.86 of 2018 on the file of the VI Additional Family Court, Chennai.

2. I.A.No.2 of 2019 was filed by the respondents claiming a sum of Rs.75,000/- for maintenance to the first respondent and her two children; and Rs.25,000/- towards litigation expenses. This petition was contested by the petitioner. On considering the rival submissions, the learned VI Additional Family Judge, directed the petitioner to pay a sum of Rs.20,000/- per month to the respondents 1 and 3, totally the sum of Rs.40,000/- per month towards interim maintenance and the sum of Rs.20,000/- towards litigation expenses. Against this order, Civil Revision Petition is preferred.

3. The learned counsel for the petitioner submitted that, in the enquiry before the learned VI Additional Family Judge, the respondents have not produced any document to show that the petitioner is involved in

real estate business, owning immovable properties, paying Rs.4,00,000/- towards Life Insurance premium for his Insurance of Rs.1,00,00,000/- and leading a luxurious life. Therefore, directing the petitioner to pay Rs.40,000/- as interim maintenance, is without any basis. He further submitted that, he has not produced any document to show the rental income received by the first respondent and also that, she is employed and earning the monthly salary. In the light of the documents produced in the maintenance amount ordered to be paid by the petitioner has to be revised.

4. In response, the learned counsel for the respondents submitted that, the first respondent was working at the time of marriage and subsequent to the marriage, after the birth of second child, she left the job. The documents now sought to be relied on by the petitioner for showing that the first respondent is getting rental income and that, she is earning monthly income, have not been produced before the trial Court. Therefore, he prayed for dismissal of this petition.

5. In reply, to this statement, the learned counsel for the petitioner submitted that, the first respondent was working in the Mellstar earlier and now, she is working in IBM as Senior Consultant. However, both the parties have not produced any documents in support of their claim before the trial Court. It appears from the order of the learned VI Additional Family Judge, that the matter was decided on the basis of the affidavit and counter affidavit filed by both the parties. It is settled proposition of law that, whenever there is change in the economic status of the parties, they can approach the Court for revision of maintenance. If the petitioner is able to prove that the first respondent is presently working and earning income and capable of maintaining herself by her monthly income and also by rental income, it is for him to approach the trial Court with appropriate application for appropriate relief. However, this Court does not want to interfere with the order passed by the learned VI Additional Family Judge, in ordering maintenance at Rs.40,000/- per month to the respondents 1 and 3.

6. One more aspect to be considered is that, when the matter was taken up for admission on 16.12.2020, it was informed that the petitioner

was in arrears of Rs.4,60,000/-. This Court directed the petitioner to deposit Rs.4,00,000/- on or before 02.06.2021, failing which, it was ordered that the proceedings before the trial Court may go on. It is now represented by the learned counsel for the petitioner that, the petitioner has deposited only Rs.1,50,000/- and paying maintenance at Rs.30,000/- per month. The learned counsel for the petitioner claims that the sum of Rs.2,00,000/- was deposited in the first respondent's Bank Account. Whatever the amount deposited, the fact remains that, the petitioner has not paid Rs.4,00,000/- as directed by this Court, on 16.12.2020. For this reason also, this Court is not inclined to interfere with the order of the learned VI Additional Family Judge, Chennai, in I.A.No.2 of 2019 in O.S.No.86 of 2018 dated 03.02.2020 and the order is confirmed.

7. Resultantly, this Civil Revision Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed. However, there is no order as to costs.

WEB COPY 23.09.2021

Speaking order / Non-speaking order

Index : Yes / No

psa / sri

G.CHANDRASEKHARAN, J.

psa / sri

To

The VI Additional Family Court,
Chennai.



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