

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No. 210 of 2017
and
CMP.No.906 of 2017

Vasanth ..Petitioner

Vs.

Rajalakshmi ..Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India praying to set aside the order dated 12.12.2016 made in I.A.No.395 of 2016 in FC.H.M.O.P.No.246 of 2016 passed by the Family Court, Dharmapuri, Dharmapuri District.

For Petitioner : Mr. M.R.Jothimanian

For Respondent : Mr. C.Prabakaran

ORDER

This Civil Revision Petition is arising out of the fair and decretal order passed in I.A.No.395 of 2016 in FC H.M.O.P.No.246 of 2015 dated 12.12.2016 on the file of the Family Court, Dharmapuri, Dharmapuri District, thereby awarding interim maintenance of Rs.5,000/- per month

pending the disposal of the divorce petition and a sum of Rs.5,000/- towards the expenses of the proceedings.

2. The learned counsel for the petitioner would submit that the petitioner filed a petition for divorce as against the respondent herein. Pending divorce petition, the respondent filed a petition for interim maintenance. The trial Court awarded a sum of Rs.5000/- as interim maintenance pending disposal of the divorce petition and also awarded a sum of Rs.5,000/- towards the expenses of the proceedings. He would further submit that there was divorce agreement between the petitioner and the respondent dated 11.12.2014, in which the petitioner agreed to pay a sum of Rs.2,50,000/- as full and final settlement towards the maintenance and also for consent to divorce. According to the petitioner, the entire amount was received and thereafter, the respondent refused to give divorce under mutual consent. Therefore, the petitioner was constrained to file a petition for divorce on the ground of cruelty. He would further submit that the petitioner is working as Office Assistant in the Bank temporarily and he is receiving very meager amount of monthly salary.

3. The learned counsel for the respondent would submit that now the divorce petition filed by the petitioner is dismissed for default. However, the petitioner is taking steps to restore the divorce petition. He would further submit that the respondent has no other employment and only depending upon the petitioner herein. Therefore, the trial Court awarded only meager sum of Rs.5,000/- as interim maintenance till the disposal of the main divorce petition.

4. Heard Mr.M.R.Jothimanian, learned counsel appearing for the petitioner and Mr. C.Prabakaran, learned counsel for the respondent.

5. Admittedly, the petitioner is working as Office Assistant in the Bank. The interim award of maintenance is at Rs.5,000/- which is meager one in the present circumstances. However, the learned counsel for the petitioner would submit that it may be reduced to the tune of Rs.3,000/- as per the interim order granted by this Court. Though, the petitioner stated that a sum of Rs.2,00,000/- paid as permanent alimony to the respondent, there is no evidence to show that the respondent received the said amount. However, now the petition for divorce itself was dismissed for default and

the petitioner is taking steps to restore the same.

6. Considering the above facts and circumstances, the order passed by the Family Court, Dharmapuri, Dharmapuri District in I.A.No.395 of 2016 in FC.H.M.O.P.No.246 of 2016 dated 12.12.2016 is modified as follows:-

(i) the petitioner is directed to pay a sum of Rs. 4,000/- (Rupees Four Thousand only) as interim monthly maintenance to the respondent herein on or before 5th day of every English Calender month till the disposal of the main divorce petition.

7. With the above direction, this Civil Revision Petition is ordered accordingly. Consequently, the connected Miscellaneous Petition is closed. No costs.

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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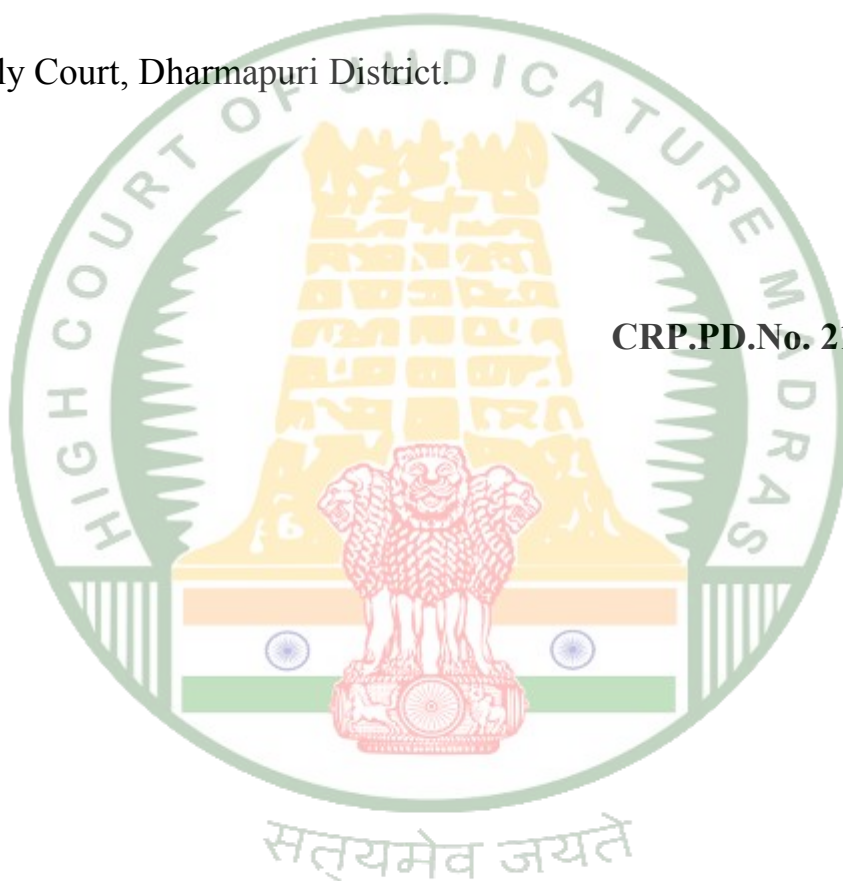
08.01.2021

G.K.ILANTHIRAIYAN,J.

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To

The Family Court, Dharmapuri District.



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